

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 17, 2009

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SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-third day of the One Hundred First Legislature, First Session. Our chaplain for today is Pastor John Nelson, Christ Lutheran Church, Columbus, Nebraska, in Senator Stuthman's district. Please rise. []

PASTOR NELSON: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Pastor Nelson. I call to order the sixty-third day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

ASSISTANT CLERK: There is a quorum present this morning, Mr. President. []

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the Journal? []

ASSISTANT CLERK: No corrections today. []

SPEAKER FLOOD: Are there any messages, reports, or announcements? []

ASSISTANT CLERK: New A bill, LB476A by Senator Stuthman. (Read by title for the first time.) I have a report of registered lobbyists for the current week; and a list of reports that have been filed with our office from Health and Human Services, the Investment Council and the Department of Roads. That's all that I have. (Legislative Journal pages 1095-1096.) [LB476A]

SPEAKER FLOOD: Thank you, Mr. Clerk. We will proceed to the first item on the agenda, LB27A. [LB27A]

ASSISTANT CLERK: Mr. President, LB27A was introduced by Senator Pahls. (Read title.) [LB27A]

SPEAKER FLOOD: Senator Pahls, you're recognized to open on LB27A. [LB27A]

SENATOR PAHLS: Good morning, Mr. President, members of the body. The funds to

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carry out the provisions for LB27, no General Funds are utilized. Funds come from the Healthcare Cash Fund and the federal fund and also in the future from private sector. So there are no funds from the General Fund utilized for this bill. Thank you. [LB27A LB27]

SPEAKER FLOOD: Members, you've heard the opening to LB27A. There are no members wishing to speak. Senator Pahls, you are recognized to close. Senator Pahls waives closing. The question for the body is, shall LB27A advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB27A]

ASSISTANT CLERK: 37 ayes, 0 nays on the advancement of the bill, Mr. President. [LB27A]

SPEAKER FLOOD: LB27A advances to E&R Initial. Mr. Clerk, we now proceed to LB497A. [LB27A LB497A]

ASSISTANT CLERK: Mr. President, LB497A introduced by Senator Fulton. (Read title.) [LB497A]

SPEAKER FLOOD: Senator Fulton, you're recognized to open on LB497A. [LB497A]

SENATOR FULTON: Thank you, Mr. President. Members of the Legislature, LB497A is strictly the appropriation bill to the ignition interlock and it's only cash funds, no General Funds associated. Section 1 appropriates \$240,000 from the Probation Cash Fund to the Supreme Court for probation administration. Under Section 1 of LB497 as amended, the Office of Probation Administration is allowed to use no more than 5 percent of the revenue collected for administrative costs. Section 2 of the A bill appropriates \$32,000 to DMV, DMV Cash Fund for a one-time expenditure for changes to the driver license system. This bill needs to move forward to accompany LB497. I'd ask for its advancement to Select File. Thank you, Mr. President. [LB497A LB497]

SPEAKER FLOOD: Thank you, Senator Fulton. Members, you've heard the opening on LB497A. There are no members wishing to speak. The question...Senator Fulton, you're recognized to close. Senator Fulton waives his opportunity. The question for the body is, shall LB497A advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB497A]

ASSISTANT CLERK: 34 ayes, 0 nays on the advancement of the bill, Mr. President. [LB497A]

SPEAKER FLOOD: LB497A advances to E&R Initial. Mr. Clerk, we now move to LB463A, Select File appropriation bill. [LB497A LB463A]

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ASSISTANT CLERK: Mr. President, there are no E&R amendments to LB463A. [LB463A]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB463A]

SENATOR NORDQUIST: Mr. President, I move LB463A to E&R for engrossing. [LB463A]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The ayes have it. LB463A advances to E&R for engrossing. Members, please find your seats in advance of Final Reading. Members, as we prepare for Final Reading, please note on the agenda, any bill with an amendment will be moved to the end of the list but will be taken up today. Pursuant to that, we will pass over LB54, it has an amendment this morning. We immediately move to LB111E, Mr. Clerk. [LB463A LB111]

ASSISTANT CLERK: (Read LB111 on Final Reading.) [LB111]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB111E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB111]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1097.) The vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB111]

SPEAKER FLOOD: LB111E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB121. The first vote will be to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB111 LB121]

ASSISTANT CLERK: 44 ayes, 1 nay to dispense with the at-large reading, Mr. President. [LB121]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB121]

ASSISTANT CLERK: (Read title of LB121.) [LB121]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB121 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB121]

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ASSISTANT CLERK: (Record vote read, Legislative Journal page 1098.) The vote is 42 ayes, 6 nays, 1 excused and not voting. [LB121]

SPEAKER FLOOD: LB121 passes. Mr. Clerk, LB121A. [LB121 LB121A]

ASSISTANT CLERK: (Read LB121A on Final Reading.) [LB121A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB121A pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB121A]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1098-1099.) The vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB121A]

SPEAKER FLOOD: LB121A passes. Mr. Clerk, we now proceed to LB164. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB121A LB164]

ASSISTANT CLERK: 46 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB164]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB164]

ASSISTANT CLERK: (Read title of LB164.) [LB164]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB164 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB164]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1099-1100.) The vote is 48 ayes, 0 nays, 1 excused and not voting. [LB164]

SPEAKER FLOOD: LB164 passes. Mr. Clerk, we now proceed to LB202. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB164 LB202]

ASSISTANT CLERK: 44 ayes, 0 nays on the dispensing with the at-large reading, Mr. President. [LB202]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the

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title. [LB202]

ASSISTANT CLERK: (Read title of LB202.) [LB202]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB202 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB202]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1100-1101.) The vote is 48 ayes, 0 nays, 1 excused and not voting. [LB202]

SPEAKER FLOOD: LB202 passes. Mr. Clerk, LB202A. [LB202 LB202A]

ASSISTANT CLERK: (Read LB202A on Final Reading.) [LB202A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB202A pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB202A]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1101-1102.) The vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB202A]

SPEAKER FLOOD: LB202A passes. Mr. Clerk, we now proceed to LB206E. [LB202A LB206]

ASSISTANT CLERK: (Read LB206 on Final Reading.) [LB206]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB206E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB206]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1102.) The vote is 47 ayes, 0 nays, 2 present and not voting, Mr. President. [LB206]

SPEAKER FLOOD: LB206E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB292. The first vote will be to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB206 LB292]

ASSISTANT CLERK: 41 ayes, 1 nay to dispense with the at-large reading. [LB292]

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SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB292]

ASSISTANT CLERK: (Read title of LB292.) [LB292]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB292 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB292]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1103.) The vote is 49 ayes, 0 nays, 0 excused and not voting. [LB292]

SPEAKER FLOOD: LB292 passes. Mr. Clerk, LB292A. [LB292 LB292A]

ASSISTANT CLERK: (Read LB292A on Final Reading.) [LB292A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB292A pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB292A]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1103-1104.) The vote is 48 ayes, 0 nays, 1 present and not voting. [LB292A]

SPEAKER FLOOD: LB292A passes. Mr. Clerk, we now proceed to LB300. [LB292A LB300]

ASSISTANT CLERK: (Read LB300 on Final Reading.) [LB300]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB300 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB300]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1104.) The vote is 47 ayes, 0 nays, 2 present and not voting, Mr. President. [LB300]

SPEAKER FLOOD: LB300 passes. Mr. Clerk, we now proceed to LB328E. The first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB300 LB328]

ASSISTANT CLERK: 44 ayes, 0 nays to suspense with the at-large reading, Mr. President. [LB328]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the

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title. [LB328]

ASSISTANT CLERK: (Read title of LB328.) [LB328]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB328E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB328]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1105.) The vote is 49 ayes, 0 nays. [LB328]

SPEAKER FLOOD: LB328E passes with the emergency clause attached. Mr. Clerk, LB328AE. [LB328 LB328A]

ASSISTANT CLERK: (Read LB328A on Final Reading.) [LB328A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB328AE pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB328A]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1106.) The vote is 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB328A]

SPEAKER FLOOD: LB328AE passes with the emergency clause attached. Mr. Clerk, we now proceed to LB340E. [LB328A LB340]

ASSISTANT CLERK: (Read LB340 on Final Reading.) [LB340]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB340E pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB340]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1106-1107.) The vote is 49 ayes, 0 nays, Mr. President. [LB340]

SPEAKER FLOOD: LB340E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB355E. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB340 LB355]

ASSISTANT CLERK: 36 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB355]

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SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB355]

ASSISTANT CLERK: (Read title of LB355.) [LB355]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB355E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, please, Mr. Clerk. [LB355]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1107-1108.) The vote is 28 ayes, 21 nays, 0 excused and not voting, Mr. President. [LB355]

SPEAKER FLOOD: LB355E does not pass with the emergency clause attached. The next vote we will take is on LB355 with the emergency clause stricken. All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB355]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1108.) The vote is 27 ayes, 22 nays, Mr. President. [LB355]

SPEAKER FLOOD: LB355 passes without the emergency clause attached. LB361, Mr. Clerk. [LB355 LB361]

ASSISTANT CLERK: (Read LB361 on Final Reading.) [LB361]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB361 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk...Madam Clerk, please record. [LB361]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1108-1109.) The vote is 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB361]

SPEAKER FLOOD: Thank you, Madam Clerk. LB361 passes. We now proceed to LB396. [LB361 LB396]

ASSISTANT CLERK: (Read LB396 on Final Reading.) [LB396]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB396 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB396]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1109.) The vote is 48

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ayes, 1 nay, 0 present and not voting, Mr. President. [LB396]

SPEAKER FLOOD: LB396 passes. (Visitors introduced.) Continuing with Final Reading, Madam Clerk, we now proceed to LB449. [LB396 LB449]

ASSISTANT CLERK: (Read LB449 on Final Reading.) [LB449]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB449 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB449]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1110.) The vote is 49 ayes, 0 nays, Mr. President. [LB449]

SPEAKER FLOOD: LB449 passes. Madam Clerk, we now proceed to LB458. [LB449 LB458]

ASSISTANT CLERK: (Read LB458 on Final Reading.) [LB458]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB458 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB458]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1110-1111.) The vote is 49 ayes, 0 nays, Mr. President. [LB458]

SPEAKER FLOOD: LB458 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB111, LB121, LB121A, LB164, LB202, LB202A, LB206, LB292, LB292A, LB300, LB328, LB328A, LB340, LB361, LB396. Continuing with Final Reading, Madam Clerk, we now proceed to LB477 where the first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB458 LB111 LB121 LB121A LB164 LB202 LB202A LB206 LB292 LB292A LB300 LB328 LB328A LB340 LB361 LB396 LB477]

ASSISTANT CLERK: 39 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB477]

SPEAKER FLOOD: The at-large reading is dispensed with. Madam Clerk, please read the title. [LB477]

ASSISTANT CLERK: (Read title of LB477.) [LB477]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB477 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB477]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1111-1112.) The vote is 49 ayes, 0 nays, Mr. President. [LB477]

SPEAKER FLOOD: LB477 passes. (Visitors introduced.) Continuing with Final Reading this morning, LB511E, Madam Clerk. [LB477 LB511]

ASSISTANT CLERK: (Read LB511 on Final Reading.) [LB511]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB511E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB511]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1112.) The vote is 49 ayes, 0 nays, Mr. President. [LB511]

SPEAKER FLOOD: LB511E passes with the emergency clause attached. Madam Clerk, LB517. [LB511 LB517]

ASSISTANT CLERK: (Read LB517 on Final Reading.) [LB517]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB517 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB517]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1113.) The vote is 49 ayes, 0 nays, Mr. President. [LB517]

SPEAKER FLOOD: LB517 passes. Madam Clerk, we now proceed to LB547E. The first vote is to dispense with the at-large reading All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB517 LB547]

ASSISTANT CLERK: 40 ayes, 1 nay on the motion to dispense with the at-large reading, Mr. President. [LB547]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB547]

ASSISTANT CLERK: (Read title of LB547.) [LB547]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB547E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB547]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1114.) The vote is 49 ayes, 0 nays, Mr. President. [LB547]

SPEAKER FLOOD: LB547E passes with the emergency clause attached. Madam Clerk, LB547AE. [LB547 LB547A]

ASSISTANT CLERK: (Read LB547A on Final Reading.) [LB547A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB547AE pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Madam Clerk, please record. [LB547A]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1114-1115.) The vote is 49 ayes, 0 nays, Mr. President. [LB547A]

SPEAKER FLOOD: LB547AE passes with the emergency clause attached. Madam Clerk, LB620. [LB547A LB620]

ASSISTANT CLERK: (Read LB620 on Final Reading. [LB620]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB620 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB620]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1115.) The vote is 49 ayes, 0 nays, Mr. President. [LB620]

SPEAKER FLOOD: LB620 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB449, LB458, LB477, LB511, LB517, LB547A, LB547. Madam Clerk, we now proceed to LB158. But before we do that, while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB620, LB355. Madam Clerk, we now proceed to LB158. [LB620 LB449 LB458 LB477 LB511 LB517 LB547A LB547 LB620 LB355 LB158]

ASSISTANT CLERK: Mr. President, with respect to LB158, I do have a motion to return to Select File. Senator Flood would move to return the bill for specific amendment, AM1006. (Legislative Journal page 1022.) [LB158]

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SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Senator Flood, you are recognized to open on AM1006. [LB158]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. This is a technical amendment. It makes changes to the Final Reading copy. All of these changes were approved by all of the groups previously involved in reaching the compromise regarding LB158. Those groups include Nebraska League of Municipalities, the Nebraska County Officials, and the Nebraska Fraternal Order of Police. Essentially, on pages 9 and 10, the amendment adds a sentence to clarify that certain sections do not apply to any municipality or county accredited through the commission on law enforcement agencies. The rest of the amendments, again, are technical and cleanup in nature and were suggested by Bill Drafters. This is purely technical. It satisfies a concern of folks in Omaha and Lincoln, and has Senator White's support. I would ask that you return this bill to Select File for this specific amendment. Thank you. [LB158]

SENATOR ROBERT: Thank you, Senator Flood. Members, you have heard the opening to AM1006, a motion to return to Select File for specific amendment. Are there members wishing to speak? Seeing none, Senator Flood waives his opportunity to close. The question before the body is, shall LB158 be returned to Select File for a specific amendment? Those in favor vote aye; opposed vote nay. Madam Clerk, please record. [LB158]

ASSISTANT CLERK: 44 ayes, 0 nays on the motion to return to Select File, Mr. President. [LB158]

SENATOR ROBERT: The motion passes. Senator Flood, AM1006. [LB158]

SPEAKER FLOOD: I reincorporate by reference everything I just said on the motion to return to Select. This is a technical amendment. I urge your support. [LB158]

SENATOR ROBERT: Thank you, Senator Flood. Any members wishing to speak? Seeing none, the question before the body is shall AM1006 be adopted? All those in favor say...or vote by saying...vote by yea; all those opposed vote nay. Madam Clerk, please record. [LB158]

ASSISTANT CLERK: 44 ayes, 0 nays on the adoption of Senator Flood's amendment. [LB158]

SENATOR ROBERT: AM1006 is adopted. Senator Nordquist for a motion. [LB158]

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SENATOR NORDQUIST: Mr. President, I move LB158 to E&R for engrossing. [LB158]

SENATOR ROBERT: Members, the question before the body is, shall LB158 advance to E&R for engrossing? All those in favor signify by saying aye. Opposed, nay. LB158 advances. Madam Clerk, LB54. [LB158 LB54]

ASSISTANT CLERK: Mr. President, with respect to LB54, I do have a motion. Senator Langemeier would move to return the bill to Select File for specific amendment. That amendment is AM1099. (Legislative Journal pages 1116-1119.) [LB54]

SENATOR ROBERT: Senator Langemeier, you are recognized to open on your motion to return to Select File for specific amendment. [LB54]

SENATOR LANGEMEIER: Mr. President, members of the body, first, I'd like to thank Senator Fischer for letting me put this on her bill. AM1099 goes with LB483 that I passed earlier, that you all helped me pass earlier this year, to deal with a change in the status from fully appropriated to nonfully appropriated. And part of that bill is that restriction went on for four years after the change in status. Well, LB962 requires that the department do annual reviews of a fully appropriated status. Well, with LB483 in place, the NRDs are coming to DNR to request a certain amount of acres so they're kind of...they're having to do this review. Kind of informally, they're having to do this review to decide whether they can approve those acres or not. So I think it's repetition then if they approve those acres in May of the year and then have to do a...mandatory to do a report again in December. It's kind of doubling up. So I'd like to change the requirement that it is not mandatory. It would be optional, at the department's discretion, whether they want to make a declaration during those four years after a change. So it would allow them that option to not have to basically make a determination whether they could approve those acres and then at the end of the year make another determination if those acres made them fully appropriated. It's just a doubling up of their workload. And so I'd ask for your adoption to make that optional on behalf of the department so they can only have to do it once a year. And with that, I'd ask that you return to Select File to do that. Thank you. [LB54 LB483]

SENATOR ROBERT: Thank you, Senator Langemeier. Members, you have heard the opening to the motion to return to Select File. Are there members wishing to speak? Seeing none, Senator Langemeier waives his opportunity to close. The question before the body is, shall LB54 return to Select File for a specific amendment? All those in favor vote yea; opposed vote nay. Please record, Mr. Clerk. [LB54]

ASSISTANT CLERK: 42 ayes, 0 nays, Mr. President, on the motion to return. [LB54]

SENATOR ROBERT: LB54 does return to Select File. [LB54]

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ASSISTANT CLERK: Mr. President, Senator Langemeier would offer AM1099. [LB54]

SENATOR ROBERT: Senator Langemeier, you're recognized to open on AM1099 to LB54. [LB54]

SENATOR LANGEMEIER: Mr. President, members of the body, I've pretty much done that. The wording says the department may not...is not required to perform an annual evaluation. It still gives them the option. If they want to go back and do it again, that's at their discretion. But we wouldn't mandatorily make them do that in a basin that has been...had their status changed. This would allow them the option to not do so much repetitive work. Thank you, and I'd ask for the adoption of AM1099. [LB54]

SENATOR ROBERT: Thank you, Senator Langemeier. Members, you have heard the opening to AM1099 to LB54. Are there members wishing to speak? Senator Fulton, you're recognized. [LB54]

SENATOR FULTON: Thank you, Mr. President. Would Senator Langemeier yield to a question? [LB54]

SENATOR ROBERT: Senator Langemeier, will you yield to a question? [LB54]

SENATOR LANGEMEIER: Yes. [LB54]

SENATOR FULTON: The recent happenings here with regard to Lower Platte South have caused me to pay closer attention to these types of bills. Can you just explain? We, in LB54 originally, we did have mandatory...a requirement that this be mandated and now we're proposing to move it such that it's optional? Can you just explain? I'm not remembering what we did. [LB54]

SENATOR LANGEMEIER: No, in LB962 that was passed back in 2004, when that major water legislation was passed it mandated that the Department of Natural Resources evaluate every NRD basin or subbasin annually, so that was put in place there. What LB483 did is they've made this determination. Now we've reversed it, for example, in the Lower Platte, and so now the NRDs are going to use our tools that we gave them to limit growth. So they're going to go to DNR and they're going to say, DNR, we would like the 2,500 acres that was put in there. And part of giving them the 2,500 acres, those new acres cannot make them fully appropriated. So the department has to evaluate whether they can have those acres and keep themselves from being fully appropriated and then they either grant or deny. So that's happening sometime in the first part of the year. Then, according to LB962, they have to, by December 31, they have to reevaluate the basin, and it's mandatory that they give a determination they're not fully appropriated. Well, if you did it in May and you said, you can have the 2,500 acres in May and it's not going to make you fully appropriated, it shouldn't have

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changed anything in December. So why mandatorily make them do another determination at the end of the year? Now it is optional. If something happened out there that they know about, some big surface user or some big users cease to exist or change things, they would still have the option to go make that annual determination. This would just take the requirement out that says you have to do it again. [LB54 LB483]

SENATOR FULTON: Okay. Thank you, Senator Langemeier. That was very informative and useful and I appreciate it, and I will support AM1099. Thank you, Mr. President. [LB54]

SENATOR ROBERT: Thank you, Senator Fulton. Senator Stuthman, you're next and recognized. [LB54]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to ask Senator Christensen a question. [LB54]

SENATOR ROBERT: Senator Christensen, will you yield to a question? [LB54]

SENATOR STUTHMAN: I mean Senator Langemeier. I'm sorry. [LB54]

SENATOR ROBERT: Senator Langemeier, will you yield to a question? (Laughter) [LB54]

SENATOR LANGEMEIER: I was hoping you were right. [LB54]

SENATOR STUTHMAN: (Laugh) The names are both fairly long so... [LB54]

SENATOR LANGEMEIER: Yes. [LB54]

SENATOR STUTHMAN: But, Senator Langemeier, what happens in the case where a basin is fully appropriated? Do they still have to continue to do it annually? What I'm thinking of is a situation where they're fully appropriated and they don't have to do it annually and they decide that well, we're fully appropriated and let's not worry about it. How can we allow a situation when there's more rainfall, more...less water needed for irrigation, that they would get to the point where they would not be fully appropriated or overappropriated? Give me that situation. [LB54]

SENATOR LANGEMEIER: Well, this piece of legislation would only work for those that the status changed. The law states that if you are fully appropriated, they don't do an annual review. That's only before you become fully appropriated you do the annual review. But once you become fully appropriated, the only way the department is going to go back and look at that is if the department...or the natural resources district makes a formal request to the department that says, we think, because of X, Y and Z, we're no

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longer fully appropriated; please reevaluate us. [LB54]

SENATOR STUTHMAN: So that is the example of a situation where a basin is fully appropriated. And there will come situations when we get a lot of rainfall and not nearly the irrigation needed, that I'm sure. But that direction would be given by the NRD then. [LB54]

SENATOR LANGEMEIER: The NRD would request the Department of Natural Resources to reevaluate. There's nothing in law that says they have to go reevaluate. [LB54]

SENATOR STUTHMAN: Okay. Okay. Thank you. [LB54]

SENATOR LANGEMEIER: Different section. [LB54]

SENATOR STUTHMAN: And that answers the question, Senator Langemeier. [LB54]

SENATOR ROBERT: Thank you, Senator Stuthman, Senator Langemeier. Seeing no other lights on, Senator Langemeier, you're recognized to close on AM1099. [LB54]

SENATOR LANGEMEIER: I would like to thank everyone that asked questions on this. It is pretty simple. I think we're just taking out some mandatory repetition here and give them, the department, the option. Once they've already done this review once that year, why do it again? And so I'd ask for the adoption of AM1099. I'd like to thank Senator Fischer for the opportunity to touch into the same statutes that she has in LB54, and I'd ask for the adoption of both. Thank you. [LB54]

SENATOR ROBERT: Thank you, Senator Langemeier. Members, you have heard the closing to AM1099. The question before the body is, shall AM1099 be adopted on LB54? All those in favor vote yea; opposed vote nay. Mr. Clerk, please record. [LB54]

ASSISTANT CLERK: 41 ayes, 0 nays on the adoption of the amendment, Mr. President. [LB54]

SENATOR ROBERT: AM1099 is adopted. Senator Nordquist for a motion? [LB54]

SENATOR NORDQUIST: Mr. President, I move LB54 to E&R for engrossing. [LB54]

SENATOR ROBERT: Members, you've heard the motion. The question before the body is, shall LB54 advance to E&R for engrossing? All those in favor signify by saying aye. Opposed, nay. LB54 does advance. Mr. Clerk, items for the record. [LB54]

ASSISTANT CLERK: Mr. President, amendment to be printed to LB97 by Senator

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Flood. And Enrollment and Review reports LB355 as correctly enrolled. (Legislative Journal pages 1120-1125.) [LB97 LB355]

SENATOR ROBERT: Members, we will now proceed to the next item on the agenda, motion to place a bill on General File pursuant to Rule 3, Section 18. Mr. Clerk. []

ASSISTANT CLERK: Mr. President, Senator Pahls would move to place LB385 on General File, notwithstanding the actions of the Revenue Committee. [LB385]

SENATOR ROBERT: Senator Pahls, you are recognized to open on your motion to place LB385 on General File, MO32. [LB385]

SENATOR PAHLS: Thank you, Mr. President, members of the body. I do appreciate the Speaker giving me the opportunity to try to move my bill from the committee to this body. I know this is a unique and an unusual way of carrying on legislation, but I do realize that this is part of the rule. I also understand that my bill was killed by an 8 to 0, and I think the committee had some concerns about it. But I also was intrigued on the questions that they asked me and the response from them. It seemed like they did have some interest in this particular bill. I believe that this bill is a little bit more unusual than the typical bill because this bill would or could affect every man, woman, and child in the state of Nebraska. Any time we would make a massive change in the tax code or tax policy for the state, everyone in this state would be impacted and I think for the better. Several people have asked me, now, why do you have this interest? Well, two or three years ago I did serve on a Tax Policy Commission and we took a look at all of the taxes that the state of Nebraska is involved with and I happened to serve on the subcommittee dealing with sales taxes. Another thing that brought this to my attention is two years ago, when a number of you were new in this body, I repeatedly heard from the senators that they have a concern about property tax. So that's one reason why I had two bills. One bill was a bill dealing with eliminating property taxes and this bill has a little bit different direction to it. And I've also noticed recently the word "sunset" is appearing in more and more legislation and I made that comment a couple of times, and today we passed LB164 which also had sunsets. I think most of you have a couple pieces of information that was printed off of a newspaper and I'm just going to go over a couple of topics that have occurred in the...this one is in the Lincoln Journal Star. I'm just going to read a couple. Senators recently held public hearings on five sales tax-exemption bills that would cost the state about \$65 million. Now I'm going to mention those senators, their names, if they happen to be on the Revenue Committee. Omaha Senator Tom White likes to look at how the tax system applies to individuals and groups, so a sales tax-exemption means a favor to one party and not the other, he says. I have never really heard a bad reason for a sales tax-exemption. On an individual basis, they all look good. But why should this citizen be favored over other citizen? Over the years, he says, the system has begun to resemble Swiss cheese, filled with exemption holes. Another senator who serves on the Revenue Committee, Omaha

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state Senator Mike Friend, says his bill to eliminate the sales tax on the water used by people in cities shows how dysfunctional the sales tax system is. Nebraskans don't tax bottled water bought from the store but we pay a sales tax on water from municipal water system. It seems to be very crazy to me. This article is March 29. One of his statistics has caught the eye of several lawmakers. More sales, about \$3 million, are exempt from sales tax than are taxed, about \$2 million. Now here's a senator from the Lincoln area. The sales tax base looks like Swiss cheese. We just keep drilling more holes in it. Here is one from Jamie Karl, a chamber spokesman: Five-sixths of all sales tax-exemptions are for business purchases of some kind, including fuel for farmers, ranchers, and manufacturers, containers for shipping agricultural feed, seed, and chemicals. Here is from Jay Rempe from the Nebraska Farm Bureau: While farmers hate property taxes more than a hail storm, they want them lowered, not eliminated. Property tax is a very stable source of government revenue, Rempe said, financing important local sales tax for roads maintenance and fire protection. There are several others, but I think you get my message. Today I want to beg you to be a little bit patient for me because I'm going to give you a number of packets of information, and the reason why, the rule really constrains me to certain lengths of time. And I may ask one or two to give me some of their time if at all possible. I'm not going to spread this out over hours. My intent is to get this hopefully resolved, my part of it, in at least 20-25 minutes. Right now most of you should have a copy of LB385, and if you take a look at the bottom you'll see a cartoon. Looks like a rainbow over a pot of gold. I'm just going to go over several of the statements so you have some feeling about this bill. All sales tax-exemptions that were enacted prior to 2005 would sunset on July 1, 2011. Now if we wanted to keep those exemptions we would have a bill in saying leave the exemptions alone. Does not automatically mean every one of those exemptions are eliminated unless we would choose so. And if you go all the way down and see how this, because they do not talk about this part, for those who are concerned about the bill, number four, the authorities for cities to enact up to 1.5 cents of local sales tax would sunset on 2014. What we would do, we would reexamine and see if that's what we still want. And many of us probably know the direction we would go. None of these things have to come to pass if we would decide as a body that after so long it's okay, it's a good exemption. So now I'm going to have you just take a look at page 3, 4, and 5. You can see the exemptions that would be sunset if we did nothing about them. Just go through those different pages, you can see that. That actually is what the bill is all about. So if we decide we wanted to keep these exemptions we would literally say...put a bill in, say those exemptions should stay. It is that simple. The next thing...I will be moving on. The next thing I'm going to be talking about, because I hear people say we need to do the Syracuse study...or I mean we need to do a study, well, I'm going to show you a study dealing...in 1988, was called the Syracuse study. It was really interesting when I started talking about this, several of the lobbyists would tell me, says, do you know anything about the Syracuse study? He said, we really didn't do much about that. I'm going to show you that there is some truth to that. I'm assuming that you, if you do not have it in your hands now, you will be receiving this package shortly. On the first page of this, I

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have pulled from the study the different recommendations. The Recommendation 1, 2, 3, and 4, and below that I had the Research Department tell me whether these have been enacted or not. As if you...when you look through them, you will see that only Recommendation 1 was enacted. Recommendation 2, 3, and 4 have not been. Now this is through the Research in our office or in the Legislature. And I'll just read the one that was enacted: Business purchases of machinery and equipment should be exempt from sales tax as recommended. Now here was one that was not enacted: Purchases of candy, beverages, cookies, cakes, gourmet and fancy foods such as coffee and other nonbasic food purchase in a grocery store should be subject... [LB385 LB164]

SENATOR ROBERT: One minute. [LB385]

SENATOR PAHLS: Nothing was enacted on that. So you can see that we do have information that we can glimmer or go through and find out what happens to be some information that could help us make some of these decisions. That was on a study done in 1988. The next study that I'm going to be talking about is that one that we just recently...Nebraska Tax Commission which was in 2007. Hopefully by now you do have that packet also. Again, as I'm telling you, I do have an awful lot of information that I'm throwing at you but it's because of the time constraints. I uphold a little bit of that study and the recommendations and I'm just going to refer to one set of the recommendations from that study. The commission recognizes that every exemption from the sales tax granted by the previous legislation... [LB385]

SENATOR ROBERT: Time, Senator. [LB385]

SENATOR PAHLS: Thank you. [LB385]

SENATOR ROBERT: Thank you, Senator Pahls. Members, you have heard the opening to MO32, the motion to place LB385 on General File pursuant to Rule 3, Section 18. We have several members wishing to speak but I'm going to announce some guests before we get there. (Visitors introduced.) Returning to discussion, those wishing to speak: Senators Flood, White, Hansen, Friend, Dierks, and others. Senator Flood, you are recognized. [LB385]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. I'm opposed to Senator Pahls's motion. It doesn't mean I'm necessarily opposed to the idea that he brings to the table. Senator Pahls served on Senator Burling's Tax Review Commission and he listened and he contributed and he has brought forward an idea that I think has had a lot of discussion in the Revenue Committee. And what I'm going to say today separates the feelings we have about the process that we live in. If somebody in this Legislature today sees value in Senator Pahls's idea, I can understand that because he's bringing forward something that is wave making. It's different, it's new, and it presents a whole set of questions and discussion that the Legislature has to explore.

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And to his credit, he prioritized it. The problem is, he didn't get it out of the committee. Think about the work that you do on that committee. Think about the bills that your committees held. I oppose this motion and have opposed them in the past because I think that ignoring the will of the committee, even though you may not agree with their position, waters down the effectiveness of our committee process. Our committees serve as a filter, and for as many bills that are held out, there's probably just as many bills you'd like to see on the floor. And it is a tough position to have because I've had some bills of mine that have been held up in committee. Most recently I had a bill that the committee was really struggling with in the Judiciary Committee as it related to lethal injection, and when the heat was on, I said I'm not going to do that in any case because I'm not going to resist the Judiciary Committee and devalue the work they do. Obviously, they sent the bill out to committee on their own accord, after reaching their own conclusion. But had that not been the case, I wouldn't have filed a motion to pull it. You spend a reason (sic) in those hearings for a purpose. They are long hours. It can be tedious work. It's difficult putting the bill in the order that you want. I will say this. If this motion is successful, I will schedule it because it is a priority bill and Senator Pahls used his priority designation. Sometimes we get requests and they aren't priority bills and that's another reason, I have to say, why you shouldn't advance the motion. But he did follow the steps and what he's doing is not wrong under the rules. It is in the rules, it's there for a purpose, and Senator Pahls is simply exercising his right under the rules. I respect that. I can't support it because I think in the broader picture, as you look at the process, it devalues the committee work done by all of you. That's all I'm going to say on this topic. I appreciate his straightforwardness and the way that Senator Pahls has handled this. It is my hope that at some point we can deal with this. We will be working till the lunch hour today and beyond. Thank you, Mr. President. [LB385]

SENATOR ROBERT: Thank you, Senator Flood. Senator White, you are next and recognized. [LB385]

SENATOR WHITE: Thank you, Mr. President. I am on the Revenue Committee and I voted to kill Senator Pahls's bill, and yet I stand here very grateful that he brought the issue and he's forced it to a discussion. Senator Pahls accurately read a newspaper article which in turn accurately described my views of the sales tax system. You'd be stunned if you see how much has been given away over the years by Legislature after Legislature. I am also appreciate what Senator Pahls did because two years ago we had a major fight on the floor about whether we were going to roll back the overall sales tax rate because in the last fiscal crisis the preceding Legislatures had increased it and they had vowed that once the fiscal crisis has passed they would roll it back. The fiscal crisis passed; we kept the money. And now we're in a new fiscal crisis and we're surely not in a position to roll it back. So a debate and a review of what we've done in this area is very timely. But the reason I rise is I want to warn the body of something that I'm deeply concerned about. When we got the Republican River opinion stating that property taxes could not be directed or commanded by the state to discharge a state

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function, that after our constitutional amendment they were really there only to discharge local functions, a serious alarm bell went off for me. The state constitution doesn't tell the Legislature a lot of things that it must discharge; doesn't say specifically there are a lot of things we must do. But one thing it says in no uncertain terms is that the state Legislature must provide for an appropriate education for every child in the state under the age of 21; says it clearly and unequivocally. If you take the logic inherent in the Republican River Valley case and you accept the idea when the constitution, which is the highest law, state law in the land, says that's a state obligation and we are discharging most of that obligation with local property taxes, we are on the cusp of a serious tax crisis. I mean a staggeringly huge tax crisis. And I don't know that the Supreme Court would go there. I don't know if they'd look at the history of the constitutional amendments and the long tradition of local tax, property tax supporting schools and say that's different. But I do know from the internal logic of the Republican River case, right now the Supreme Court could rule that we can no longer rely on property taxes to run our K through 12 education, in which case what Senator Pahls is talking to you about is the only possible fiscal solution. Do I support Senator Pahls's motion to bring it out of committee at this time? No, I don't. And do I support removing all exemptions of sales tax? Absolutely not. I cannot imagine a civilized tax code that does not exempt food and medical care for the poor. But nevertheless, Senator Pahls has had the courage to bring up an issue that's difficult to discuss. But if the law goes against us on our current tax code, you will be very grateful for his research and for the opportunity to hear what he has to say. [LB385]

SENATOR ROBERT: One minute. [LB385]

SENATOR WHITE: Thank you, Mr. President. I yield the rest of my time to Senator Pahls. [LB385]

SENATOR ROBERT: One minute, Senator Pahls. [LB385]

SENATOR PAHLS: Thank you, Senator White. I appreciate that. I'm just going to react a little bit to the Speaker's feelings on this, moving this to the floor. I understand where he's coming from. He is our leader. In fact, I'm going to tell you what I think about him. We came in together as the same class and if he were standing here right now, I could look at him, because I said after being around him for a few hours I looked at him, I said, you are going to be a leader. I could feel it. Because from my past life, I've had to make a lot of evaluations on people and I looked at him. I said, you're going to be a leader. But now this is a part that I disagree with him a little bit. I understand where he's coming from, but the leader will allow me, as he is, speak my mind and then possibly, possibly change his mind, not on the process but on the end result. [LB385]

SENATOR ROBERT: Time. [LB385]

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SENATOR PAHLS: Thank you. [LB385]

SENATOR ROBERT: Thank you, Senator Pahls and Senator White. Senator Hansen, you are next and recognized. [LB385]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I appreciate Senator Pahls bringing this to a discussion in the only way that he could do it. Would not come out of committee so he's going to bring it to the floor, ask for 30 votes or how many votes do we need? How many votes do you need? (Laugh) I will not vote for this either, Senator Pahls, to bring it out of committee, but I do appreciate the time that we have to discuss this. I've talked to Senator Pahls off the mike, of course, and we've talked about an interim study. This is going to take...this is going to take some time to work through. We sit here in this Chamber and we feel...sometimes we feel boxed in. Well, I like to think out of the box and this is one chance to do it. It's not going to cost hardly anything if Senator Pahls represents District 2, I represent District 3, we need a volunteer to represent District 1, we'll take this dog and pony show on the road and we'll find out. I mean I come from the ag industry. The ag industry stands on the other side of the glass and say, you're crazy, we don't want those exemptions taken away from us. There's so many exemptions now, we don't have a sales tax base. That's what we're talking about, is broadening the sales tax base. There will be exemptions, there will always be exemptions, but we got to find out the ones we really, really need. If this is to replace property tax, I want to consider it. If this is how we're going to finance our schools, I want to consider it. I'll give the rest of my time to Senator Pahls, if he'd like. [LB385]

SENATOR ROBERT: Senator Pahls, 3:20. [LB385]

SENATOR PAHLS: Thank you, Senator Hansen. What you're...the thing about somebody from the agriculture area standing up and saying we need to take a look at this because if you take a look at the whole picture you may find out that you may, if we do...some of these exemptions do leave us, the tax base increases, you may, in the long run, you may actually come out ahead. So please, we cannot keep our eyes covered. We have to take a look at the total picture, because I do think that more people could benefit from this than they think. It's like a lot of us. If we already have that benefit, we do not want to get rid of it. For those of you who had the opportunity to read the two sheets I handed out before I started speaking, Jerome Warner, Ernie Chambers, they tried something like this, they got nowhere. These guys have been around for a long time. I know I'm swimming uphill and I don't want to be that salmon who goes up there, lays his eggs and dies. I want to come back. Okay. So I'm going to go back to the format that I'm trying to...information I'm trying to bring forth. Talked about the Syracuse study. You all should have had an opportunity to at least glance through that. The next study that I gave or that has been handed out to you was the commission that I served on and I just want to read just a couple sections from that. The commission

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recommends that the Legislature reexamine every exemption and service in the light of a contemporary Nebraska economy, competition from other states and the current level of tax burden on the Nebraska taxpayer. We need to do that. In an ideal world, every tax-exemption would sunset and would not renew unless reauthorized by the legislation, and all services would be presumed to be taxable unless exempted. That's what this group...that's one of their recommendations they did come up with. Another recommendation they did is the information that we gathered about all these taxes. The Appropriations Committee should have that right in front of them as they sit and listen to all of the needs of the state to see where the sense of balance is. [LB385]

SENATOR ROBERT: One minute. [LB385]

SENATOR PAHLS: And one of the things, just to let you know that inside these studies there was a question about food, food was exempted in '83. Before that it was taxed. Now they showed there are ways of doing this. There are ways, if you say we should tax food, there are ways to help those people in need. They call them like debit cards, tax credits. I'm not say that's what to do but a lot of people throw it, oh food, we're going to really hurt a lot of people. Well, there are ways that this commission said there are ways we can find around that. So we do have those possibilities. Again, I'm asking you to take a look through the Nebraska Tax Commission study and some of the cartoons on the front of them should...this was dealing with a king crowning somebody, just to give you an idea which particular study that I'm talking about right now. So I'm trying...I did hear the word that we need to listen and do a study this summer. Now I'm picking up on that but I'm also saying we have done that. [LB385]

SENATOR ROBERT: Time. Thank you, Senator Pahls, Senator Hansen. Senator Friend, you are next and recognized. [LB385]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I will not vote to move this on to General File, to place it on General File. In regard to the motion, I don't think...obviously, as it's been pointed out earlier in some of the discussion, it's certainly within the rules and he's certainly standing on, I guess, solid enough ground, Senator Pahls is. Is it bad precedent or bad form? I don't know. I'm not offended. My sensibilities are not necessarily offended, despite I think the fact that it has...that something like this has the potential, as Speaker Flood pointed out, to erode or circumvent a strong committee process. So I don't think my sensibilities in regarding the order have been offended. Tell you where my sensibilities are offended is with the idea. What Senator Pahls has here is an ill-advised idea. I'll tell you why. He's missing the point. I've said this before. He's heard me say it. He is missing the point. Here's what I mean. If you go to Section 77-2701.01 within our revised statutes and you look through 77-2701.53, every one of those, 53 pages of sales tax definitions, go look at them, that's the problem. He's stepping on mice and there's elephants running over his head. With all due respect, that's exactly what's happening. I said exactly everything that he said

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that I said earlier, but we have a totally different idea as to how to solve this problem. In those definitions, in those 53 pages of definitions, you have...you define taxpayer, you define a sales taxpayer, you define a use tax, you define use-based exemptions, use-based exemptions, they define that. He didn't change this in any of his language so, frankly, there's tons of things in 2701.01 through 2701.53 that you'd have to change that he hasn't affected in his legislation. That's one functional problem with it. Compare that to the income tax definitions that we have in our law. The income tax code. I'm talking about...there is a sales tax code out there and that's where it starts, with the definitions. Compare it to the income tax code. You think the income tax is confusing because a lot of people come up with deductions? The income tax is easy, folks. The definition is easy. If you make money you're going to get taxed on it unless, more or less to oversimplify, you hide it so the Department of Revenue or the IRS doesn't know where it is. If you make money, you get taxed on it. Fifty-three pages, folks, of sales tax code. I went through it. I've gone through that and I can't tell you what would be a fair exemption and what would not be. I will tell you this. These two things, in our income tax and sales tax, the definitions are a large part of those codes. We may never be able to make sales tax code like the income tax code because they're incompatible, but we can make the sales tax code more effective. Senator Pahls is not doing that with this. That's why the Revenue Committee killed it. It wasn't because he was going to bring it out here. We killed this bill. I didn't like it. But I said everything that he said that I said earlier. [LB385]

SENATOR ROBERT: One minute. [LB385]

SENATOR FRIEND: I voted to kill this, not because Senator Cornett called a meeting and said, oh, we're going to try to pull it. I voted to kill it. I would have voted to kill it the day he left the room, because I think he's wrong. He's not violating the sensibilities as far as the motion goes. He kills my bills in Exec Board. I don't try to bring them out here and call him ill-advised. I'm calling him ill-advised right now for his idea, not for the motion. It's wrong. He's hitting on all the wrong things. I believe that. If it comes out to General File, if we vote this out to General File, I will do all my...everything in my power to gut the bill and do it the way I want to do it. Thank you, Mr. President. [LB385]

SENATOR ROBERT: Thank you, Senator Friend. Those wishing to speak: Senator Dierks, Cornett, Gay, Senator Fulton, Wallman, and others. Senator Dierks, you are next and recognized. [LB385]

SENATOR DIERKS: Thank you, Mr. President. Members of the Legislature, I, too, am guilty. I helped to kill the bill in committee. And you know something? I had a bill quite similar to it in committee that I have asked them not to kill, I thought we needed to discuss, and Senator Pahls is bringing the discussion himself. I was a little bit envious of his bill. I think it had a fiscal note of \$3 billion. He almost got up with me because mine had \$4 billion. That was somewhat of a record. If you look at any one of these issues

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where we can take off removing sales tax, and then you go look at the lists of lobbyists that protect that issue and tell me what you're going to say to those lobbyists when they come to you and say you can't do this because this person needs it and that person needs it. I urged a bunch...a roomful of the new senators this year to think outside the box, to be able to think outside the box in everything they did here, in the way they do legislation. What that means to me is you think about the moral obligation you have here as well as the legal obligation, and you don't let the lobby effort get in your way. That's hard to do because the lobby effort is ever-present. To go back to some...and the other thing that I wanted to mention is every place I go in my district I hear about property tax. Doesn't matter if it's at a chamber of commerce meeting or if it's a Farm Bureau meeting, the big issue is property tax. The farmers and ranchers are burdened so heavily with the property tax thing and that burden is also placed on homeowners in the city. So we try to come up with a method of taking care of that and look what we get. I mean Senator Pahls is right on track. I think that my bill is right on track. But I knew where mine was going. It was nowhere. When I first came to the Legislature in 1987, the Syracuse study had just been done. That study, along with a school finance commission was put together, brought about a whole lot of changes when I was first here and some of those changes had to do with the way education was financed. Property taxes took a hit. There's no question about that. Property taxes in my district especially took a hit. It depends a lot on how much wealth you have as far as taxable property is concerned in those smaller school districts, and they all took...those smaller school districts still take a hit from that. I thought that Senator White hit on a very important issue here with that Supreme Court decision on how you use you local property taxes. One of the issues that I have, folks, and I've developed this over a number of years, I have no argument with the Supreme Court or the Appellate Court of Nebraska, but I do have an argument with the federal district court because I find, in my way of thinking outside the box, that they are legislating from the bench. And as long as they can do that, what little we do in here will have very little influence. So I can't do anything, nor can we,... [LB385]

SENATOR ROBERT: One minute. [LB385]

SENATOR DIERKS: ...about the judicial branch at the federal district level. We might have some effect on the Supreme Court in this state and the Appellate Courts and the county courts and the district courts, but we can't do anything about the federal district courts and this is something I think is a great big problem for production agriculture and for most industrial areas in our state. With that, I'm going to admit that I probably will not support the bill, although I really would like to because I think Senator Pahls has, in opposition to Senator Friend, I think he has a great idea. I think it's something we need to talk about and I don't think we're going to really accomplish too much without having it out there. Thank you, Mr. President. [LB385]

SENATOR ROBERT: Thank you, Senator Dierks. Senator Cornett, you are next and

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recognized. [LB385]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I wanted to go into a statement on the feelings from the Revenue Committee and myself. Senator Pahls brought the Revenue Committee two separate proposals for broadening the sales tax bases by eliminating sales tax exemptions. The committee did not advance either proposal. Speaking for myself, I feel the committee does need to do a thorough review of our sales tax code and the exemptions found there. Senator Pahls and I have had this discussion on and off for at least the last year, if not longer, and before session even began he and I had a number of conversations regarding his ideas and proposals that he would be bringing to the committee. We need to examine our sales tax code to see if broadening to select services may be necessary. Neither Senator Pahls's bills suggested that course of action, though. Our changing economy necessitates from time to time we examine our tax structure in more detail. I believe the Revenue Committee is prepared to do that. Senator Dierks, our Vice Chair, also brought us a bill, LB583, which proposes to change changes in our sales tax. His bill takes the view of broadening that base to include some services, as well as repealing exemptions. The committee has, I believe, begun a review of sales tax exemptions. This year we are reaffirming the nonprofit hospital and healthcare facility exemption which has historically been part of our sales tax code. Policy changes and healthcare delivery systems changes necessitated corrective legislation, which Senator Hadley and Senator Friend sponsored. Unclear exemption language and changes in the department's interpretation resulted in a need to annually examine sales tax provisions to clarify and correct language which has become outdated, whether by business practices or by technological changes. We heard one such bill, I believe yesterday or the day before, that Senator Dierks brought us in clarifying language in regards to veterinarian practices in concern with grooming. We have carefully considered other exemptions this year and killed many newly proposed exemptions, I'm sure to the chagrin of a number of senators in here. We have advanced some that the committee members could agree with were logical extensions of our current policy. I believe our committee as a group will examine Senator Dierks's ideas and Senator Pahls's ideas thoroughly and give them scrutiny through an interim study. I have made this commitment to Senator Pahls. We do not wish at this time, though, to sunset all sales tax-exemptions. This would create an unwieldy process which produces many hours of annual hearings. We do wish to methodically review our sales tax code. It is likely that exemptions granted by past Legislatures will be retained in many cases. A sales tax code consists of commitments and policies created by this body through its law. Each annual session of the Legislature we're required to be disciplined and focused when reviewing tax policy. Our committee is prepared to do that without disruption caused by wholesale sunseting of sales tax codes to prompt...we do not need this bill to prompt us to do our jobs. When Senator Pahls and I were discussing how we would handle this bill originally, I had suggested an amendment to the bill in regards to the Department of Revenue presenting every two years, at the beginning of the biennium, to the Revenue Committee a list of all sales

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tax-exemptions and sunsets for us to review to determine what would be the best tax policy for the upcoming biennium. That is something that I will discuss with Senator Pahls also over the interim. He did not wish to do that on this bill and wished to move forward and discuss his ideas on the floor, and I respect that. With that, I yield the remainder of my time to Senator Pahls. [LB385 LB583]

SENATOR ROBERT: Senator Pahls, 1 minute. [LB385]

SENATOR PAHLS: Thank you, Senator Cornett. And I will say that in our discussions, she...the senator has been very open. She is trying to work with me and I do appreciate that, and I do like what I hear coming out that the committee is going to be looking into this because the last thing we need to do is let the perception that the lobbyists are putting so much pressure on us that we will not act. I'm not necessarily saying on this bill. But I think we need to take a look at the pressures that sometimes are placed on us and I thought this was a very honest statement. One lobbyist came to me and says, I know that my client can prove that that tax-exempt is deserving of them. That was from a lobbyist. So I think that there are a number of people who are looking at this, could defend their exemption. [LB385]

SENATOR ROBERT: Time. Thank you, Senator Pahls and Senator Cornett. Senator Gay, you're recognized. [LB385]

SENATOR GAY: Thank you, Mr. President. Just real quickly--Senator Pahls, I'll yield you the balance of my time when I'm done--I'm not going to vote to bring this out of committee. As a Chair, I don't think that's appropriate at this time. I do commend you, Senator Pahls, for bringing up this issue and I'm glad you're having a chance to discuss it, but I do want to be forward on that. I also, you know, respect that committee work they're doing and I'm pleased to hear Senator Cornett, as Chairman of the Revenue Committee, make those commitments that they're going to look into this because it is important. In '67, I was born in '64 and I can only imagine all these...well, now we know how many exemptions exist. I like the idea that Senator Pahls is saying, a sunset provision on anything future. That makes good sense, especially with term limited senators and not understand...you know, that makes good sense so I appreciate it. The idea, though, that we could do this in one fell swoop and look at that I'd like to hear a little bit more about. I think that's a little bit very hard to do because I'd like to say...know exactly what we're doing. I think we owe it to look into all of these issues. And I see, I think you have it phased out. So the question I'm going to ask you, when you looked at a phased approach to this, can you explain that again? And then you can have the balance of my time. Thank you, Mr. President. [LB385]

SENATOR ROBERT: Senator Pahls, 3 minutes 40 seconds. [LB385]

SENATOR PAHLS: Thank you, Senator Gay. The phaseout approach is, if you take a

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look at the document, it says LB385 on the top, there are six statements on the cover of that letter of this packet, and it tells you what exemptions that we would be taking a look at, at what year. And the following pages shows you the year and the exemption that we will be taking a look at. Everybody would have...they would know, when this exemption would be time to take a look at ahead of time. If I want that exemption to stay there, I'll work to keep it there. Now you may say I don't like the arrangement. That could be changed. These are not...this is not set in stone where you'd say, well, gee, 2011 is too soon, move it to 2012. And these exemptions, like I say, are broken up into categories. Like the first one is all those before 2005. The second one would be those after, and in a little bit you're going to see why that was set up that way. And also on the sunset of the overall sales tax for the state of Nebraska. It's not necessarily saying that we're going to sunset it, but we need to take a look at it because you're going to find out shortly that has been on sort of a roller coaster ride over the years since its inception in '67. It hasn't always been 5, 5.5 percent, 7 if you're counting the cities. It has not always been that way, so things have changed. Again, if you look at that packet, you would see the order of the exemptions that we would be taking a look at, the year. This will be aboveboard. Everyone would know this so there will be plenty of time to take a look at this. And again, some people are getting this confused with LB386, when I said we would have a total exemption of everything because I thought that that would set people's minds in motion. Because right now we do, and you're going to hear this several times, we do have around \$3 billion that's exempt, \$2 billion that are not. And this year we're moving more of those from the \$2 billion into the \$3 billion column. Now if I were a person out there, I would probably like to be in the \$3 billion column instead of the \$2 billion column and I'm probably, to myself, asking why. Now I'm going to direct you to another handout that has been probably laying on your desk for awhile because I think this will show you some of the interesting issues involved and it's called a comparison of the Revenue Department's estimates. [LB385 LB386]

SENATOR ROBERT: One minute. [LB385]

SENATOR PAHLS: Thank you. In this, you will have four documents. It shows you what happened in 2008, 2006, went all the way back to 1992, and then all the way back to '79. You will be amazed at how these exemptions have increased. If you would take...just take a look at one of them, I have color-coded them orange, green, so you could follow through from those years. You follow one through, you could see how it has increased, not decreased. You could pick any topic. I'll pick one right now. Lodging rent for 30 days: 2008 it was over 69, 2006 it was 65, and it was not involved in 1992 or '79. [LB385]

SENATOR ROBERT: Time, Senator. Thank you, Senator Pahls and Senator Gay. Senator Fulton, you are next and recognized. [LB385]

SENATOR FULTON: Thank you, Mr. President, members of the body. I know many

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may have already tuned out, but hopefully some folks can tune back in because this is a pretty important debate on a number of levels. It's important because of the procedure in our Legislature. It's important because of the subject matter before us. It's also important because it touches, I think, the very core of what government is doing. First, I'm going to say that I'm going to vote in favor of Senator Pahls's motion because I have not had the ability or the...oh, it's not been...the information that was before the Revenue Committee was not before me. Now our Speaker has the position of ensuring that our debate and our process moves through efficiently. And so it is his role, I think, to oppose this. Now that's not to suggest that, indeed, he's not opposed to this for any fundamental reasons because indeed we all know that he has the lethal injection bill and he did not file a pull motion for that bill. There's something else that I want to point out that maybe you missed. If you go to your rules, this is Rule 3, Section 18. While I know the Speaker kind of has to be opposed to this, there is also in that last sentence something that you should pay attention to. A motion to raise must be disposed of by the Legislature within five legislative days after the motion is available for consideration or it shall be deemed defeated. It is within the Speaker's prerogative not to schedule this motion and this motion could have been defeated because of the elapsing of five days. So we should be thankful, I think Senator Pahls should probably be thankful to the Speaker, because he actually scheduled this motion. He didn't need to. So in terms of process here, this is a healthy debate. Now I am going to vote in favor of this motion, recognizing that it does water down the committee...the committee structure somewhat, and I'm going to ask you to consider why this rule exists. If every time a pull motion is filed we summarily dismiss that motion because it waters down the process, if every time we summarily dismiss it then we should get rid of this rule. The rule exists for a reason and I submit to you that this subject matter is at least something that ought to be debated by us such that it can be consumed and considered and reflected upon by the general public. Why should the general public be concerned with this? Sales tax-exemptions, there should be some consideration because they may have to pay more sales taxes than otherwise. I heard earlier that it's very difficult to move these tax-exemptions, to repeal them, because of the force and effect of the lobby and the business community. That may well be good...that may be well true. But the average Joe public citizen needs to be engaged here because, I'll tell you, there is something called an embedded tax that every citizen pays. So we're talking about the form of taxation and what necessitates that form. So is it just the business lobby or the businesses that's derived merit or derived some profit because we have tax-exemptions? No. Those taxes, if they're not exempted, are going to be passed on to the consumer anyway. We're talking now, and just think about that, the nature of taxation. It's not going to be paid by the business owner. It's going to be paid by the person who is consuming that service or product. We're now talking about the nature of taxation and how it affects the average person. That's another reason why I'd like to have this debate. [LB385]

SENATOR LANGEMEIER PRESIDING []

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SENATOR LANGEMEIER: One minute. [LB385]

SENATOR FULTON: It's not just the lobby who should be concerned about this. It's the entirety of our populace that should be concerned about the nature of taxation. Now what necessitates that taxation? This is something I've reflected upon for a long, long time, and I'm convinced that it's not so much the tax policy but that which necessitates that policy which we should be paying attention to. And that, incidentally, is what we do when we pass the budget. Insofar as we have a need to spend, we have a need to tax. Those taxes come in the form of property taxes, sales taxes, income taxes, what have you. We generally don't like them but we say that we have to pay them. Why? Because we have to spend that money. We could spend ourselves all day in debate on which tax is the better form of taxation... [LB385]

SENATOR LANGEMEIER: Time. [LB385]

SENATOR FULTON: Thank you, Mr. President. [LB385]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Janssen, you're recognized, followed by Senator Hadley. [LB385]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. This kind of reminds me of a curse for one person may be a blessing for another, and that reminds me of where my office is located in the State Capitol Building. It may be a curse for Senator Pahls that he had a freshman senator move in that has a stereo, a large TV, and a set of bongos in his office, but it also might be a blessing for myself that I'm next to Senator Pahls, and I also sit next to him in the Government Committee so I get to hear probably quite a bit more than I actually would from Senator Pahls if I was just sitting somewhere else in the Legislature. And from that, knowing him, I know that he likes to engage in debate. He's a former professor, educator, and what he wants to do is engage people to think, and I think that's what he's doing today. I don't think this thing is going to move today. I don't think he thinks it's going to move today, but I think he is...I think it's great to have this discussion. And I'm not a legislative historian, been here I think 64 days now so...or whatever it is, but I have followed the Legislature from afar for a number of years and I do recall in the early 2000s a group of legislators, perhaps there's some here that were serving then, maybe Dierks, I'm not certain, that were called the Dirty 30 and that dealt with basically sales tax-exemptions and how to balance the budget. And tough decisions were made and I watched one senator go through that decision-making process and it was very difficult for that particular senator to make those decisions at that time. So I think this does need to be looked at. I'm not certain I agree with the ways in which he is approaching this, but I am going to read the handout material because, like I said, he's next-door to my office and he can come over and quiz me anytime. But with that, I will yield the balance of my time to Senator Pahls.

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[LB385]

SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Senator Pahls, 3 minutes. [LB385]

SENATOR PAHLS: Thank you, Senator. I appreciate that. And I have noticed that there's some noise coming from the office next-door. No, I have not. What I'm trying to do is refocus now because I am giving you a lot of literature but what I'm talking to, speaking to next, I hope the Revenue Committee is taking a look at these documents. And the one document I'm talking about is the sales tax-exemptions passed since 1967, and if you look at the cartoon on the front of it, it shows you a person flipping a coin into a kid's hand, into a...this, I think, has a lot of value. Because we have researched all of the bills. We have started from 2008, '06, '07, '06, '05, '04, '03, '02, all the way back as far...right now, 1989. And the Research Department is helping us do this. This, to me, is important information. If we are going to look at sales tax, we need to take a look at this because, as I said, the Research Department has done an awful lot of work for us and they're continuing to do that. So I do need to commend them. It would surprise you if you take a look at the number of bills that have been passed over the last...well, 30-40 years. You'd be amazed. But the interesting thing about it is you would see this one year a bill was passed but in that bill...let's just take a look at 2008. In LB916, there were three different bills within that bill. In 2006 in LB1189, there were four bills within that bill or four concepts. Now if you go all the way back to the...page 7, also shows you how the sales tax... [LB385]

SENATOR ROBERT: One minute. [LB385]

SENATOR PAHLS: ...has gone up and down. In '67, it started at 2.5; in '69 it went to 2; and generally it went up; '77, 3.5; '87, 4., as you can see as you look through this document that it did go up and down, but has been generally going up. You know, the interesting thing about it is if we'd sales tax everything it would...everybody would pay less than 2 cents on the dollar. There's some information that I think is very crucial to our thinking. And the last one I'm going to be talking about on this is the sales tax rates from '67 to today. It's a man on an island, and if you take a look in the back you will see some information there. And the group that I would really like to see this, of course, is all the senators, but... [LB385]

SENATOR ROBERT: Time. [LB385]

SENATOR PAHLS: ...are those that serve on the Revenue Committee. [LB385]

SENATOR ROBERT: Time, Senator. Thank you, Senator Pahls and Senator Janssen. Senator Hadley, you are next and recognized. [LB385]

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SENATOR HADLEY: Mr. President, members of the body, I am one of those infamous eight on the Revenue Committee. I am also a freshman senator and if you'd a told me January 1 that I would be shaking my head on sales tax issues that were brought before us or property tax issues or income tax issues, I just was truly amazed. The number one reason, from a tax policy standpoint, for the exemptions that were generally brought to the Revenue Committee this year was Iowa does it, Kansas does it, Colorado does it, South Dakota does it, Wyoming does it. That was the number one reason, not a good tax policy reason but somebody else does it so why don't we do it. This not only applies to sales tax. We heard numerous bills for exemption from state income tax and the number one reason, again, was Iowa does it, Kansas does it, Wyoming does it, Colorado, South Dakota; not tax policy, somebody else does it. I think it is a time to take a long, hard look at our tax code. One of the hardest things I've found, being on the Revenue Committee, was to make decisions based on good tax policy, not on some somebody else says they do it. So I don't believe this is the way to do it on the floor but I would commit to Senator Pahls that I would, being on the Revenue Committee, be more than happy to look at this issue to straighten it out. Because we seem to got...we had a lot of these types of exemptions. I think there's a big difference between an exemption that is given because it is good tax policy, good fiscal policy, good governmental policy, versus just let's do it because somebody else does it. I would yield the rest of my time to Senator Pahls, if he wishes to use it. [LB385]

SENATOR ROBERT: Senator Pahls, 2 minutes 50 seconds. [LB385]

SENATOR PAHLS: Thank you, Senator. I appreciate you giving me your time because it shows me...several of the senators on the Revenue Committee have been gracious enough to give me their time. As I see that, that's a working relationship and what you are doing is you are causing me to form some problem-solving strategies as you're talking to me on how we can take a look at tax policy. I think right now we have created an interest and I think we're telling the people who are watching us on television that we are serious about this, that we are going to be taking a look at tax policy. I've heard that from several senators who are on the Revenue Committee and other senators who have indicated that they have an interest in this, and I'm going to ask you to think and reflect. Would your constituents appreciate us talking and doing something about tax policy, not necessarily that would be totally in their favor but it would favor the state as a total? Because like any time when you change policy, there are some people who do not receive as much as others. But again, I am saying if we would go to some of the past studies, they have ideas in there that we could utilize. I believe we have not utilized this, the information that has been provided to us in the past. A good example is the Syracuse study and four of those recommendations just on sales tax, we only did one. Now there were other recommendations in that packet dealing with the other parts of the tax policy, but we did not do anything. And I'm wondering, if you'd read over some of those that we did not accomplish, I think it is because there was an outside pressure...

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[LB385]

SENATOR ROBERT: One minute. [LB385]

SENATOR PAHLS: ...that was affecting the decision-making process within this body. Again, the material is there. I think much of the materials that we've handed out today, even though it's an awful lot, I understand that, but my hope is that it will give us a foundation, and instead of just "I feel," this is actual data. And we have had the Research Department helping us and I think this could be a great asset to the Revenue Committee or any other senator who would like to push this issue forward. The potential for the state of Nebraska is immense. We could do away with income tax. We could do away with property tax, if we chose to do that, by removing some exemptions. We could reduce sales tax to less than 2 cents. So for those people who say, I don't want to pay... [LB385]

SENATOR ROBERT: Time. [LB385]

SENATOR PAHLS: Thank you. [LB385]

SENATOR ROBERT: Senator Pahls, actually you're the next light on. You may continue on your time. [LB385]

SENATOR PAHLS: It is getting late in the day and I know people have an awful lot of things to do. I would like to, if I have nobody following me, would like to close. Are there a number of people? Okay. [LB385]

SENATOR ROBERT: About 12. [LB385]

SENATOR PAHLS: Okay. (Laughter) What I'm going to do, because I will let the other individuals speak and then I will continue on. Thank you. [LB385]

SENATOR ROBERT: Thank you, Senator Pahls. Those wishing to speak: Senators Carlson, Loudon, Karpisek, Utter, Harms, and others. Senator Carlson, you are recognized. [LB385]

SENATOR CARLSON: Mr. President, members of the Legislature, if Senator White would yield to a question, I would appreciate it. [LB385]

SENATOR ROBERT: Senator White, will you yield to a question? [LB385]

SENATOR WHITE: Yes, sir. [LB385]

SENATOR CARLSON: Senator White, based on what you talked about a little bit earlier

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in relationship to this bill, in LB701 we passed what we thought was a reasonable use of a local property tax to benefit local residents and all the residents in the state. Would you agree with that statement? [LB385]

SENATOR WHITE: Yes, indeed. [LB385]

SENATOR CARLSON: And we've learned it's unpredictable. [LB385]

SENATOR WHITE: Very. [LB385]

SENATOR CARLSON: We can't be certain what the court may decide, correct? [LB385]

SENATOR WHITE: That's correct. [LB385]

SENATOR CARLSON: Senator White, if a local property tax can't be used for a state obligation and both of us have a concern about how this may impact education. [LB385]

SENATOR WHITE: Oh, it'd be huge. If...and to go back to LB701, Senator, because you make an excellent point, remember the property values in that area were enhanced because of irrigation. Arguably, the irrigation, it caused the liability to the state and our thinking was, well, the enhanced property ought to discharge the obligation, the enhanced value. So I thought it was pretty tightly, locally tied. I have to tell you, you know, when the constitution says it's our obligation as a Legislature to provide for all appropriate education, K through 21, and it says that's our job, meaning it's I think defined as a state obligation, given the logic of that case, I don't know how we can use property taxes anymore and, hence, Senator Pahls, we need to start looking. [LB385]

SENATOR CARLSON: All right, Senator White, how would you feel about not necessarily being for it but if we had a state property tax levy for education, would that be viewed differently do you think? [LB385]

SENATOR WHITE: No, because as I read what the Supreme Court said, they said property taxes, when the sales tax came and the property taxes were restricted under the constitution for local purposes and states were given sales tax and income tax. So now the question is whether or not historically, one, whether they'll take the issue on, but whether historically there was always an exemption understood for education and so, therefore, they'd treat it differently. But if you just read the internal logic of the case, there's no way to distinguish that because education is clearly a state purpose. It's our obligation under the...and under the state. It doesn't say we can push it to towns or counties or cities. The state, the Legislature has to do it. [LB385]

SENATOR CARLSON: Okay. Thank you, Senator White. Mr. Speaker, how much time do I have? [LB385]

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SENATOR ROBERT: 2:10. [LB385]

SENATOR CARLSON: Okay. I'm just addressing initially here some comments to Senator Pahls and I appreciate this bringing...being brought forth so we can talk about it. As I listen to you, I'm not real sure what the objective is. And I look at several possibilities here. One certainly is to reevaluate the current sales tax-exemptions and I think that's not a bad idea. Is an objective to be...or it could be to be revenue neutral, and you've talked about how we could lower the sales tax. Or is it to raise revenue, which certainly it could be used in that regard. And then you have a sunset of July, 2016, in which we no longer would have sales tax. Now that's a pretty serious position because if we remove the sales tax-exemptions and then the sales tax, we will...well, let's just talk about removing exemptions. If we remove exemptions, we have set a precedence--... [LB385]

SENATOR ROBERT: One minute. [LB385]

SENATOR CARLSON: ...no favoritism to any individual or group in our state starting with the first dollar spent. And that's what it would be. Now if we would do that as a body then a similar procedure would be to apply the same thing to the income tax to every earned dollar from dollar one. But this is a good discussion. This is a gigantic task and this deserves study. And I'm sorry, Senator Pahls, I was going to yield whatever time I had left and I don't think I have much. But thank you, Mr. President. [LB385]

SENATOR ROBERT: Thank you, Senator Carlson. Senator Louden, you are next and recognized. [LB385]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I listen to some of the...on the Revenue Committee and we listened to some of the tax-exemptions and came across that this year, and as we said, we got a lot of testimony that it was because what other states have done. Now usually that's part of the reason for some of the sales tax-exemptions and a lot of them was providing economic incentives to remain competitive with other states, and that's been in some of your...in some of your policy tax commissions that have come out, some of their findings. The Syracuse study here a few years back decided it should be on food and that was taken off. And there's been a lot of issues that come...come and gone, you might say, over the 40, what, 47 years that...42 years that we've had a sales tax. I remember the first one, we had a sales tax on food and in order to get around that then they gave everybody a tax credit for about the amount of food they thought you would probably buy so you could get your tax-exemption back from them. And that was probably about as foolhardy an idea that had come across because at that time I had three kids in ages three to eight years old. They filed their income tax right along with the rest of us and they got their food tax-exemption check back just as long...just the

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same as someone else. So that didn't work, so finally they did away with that and they did away with the sales tax on food and we went from there. Part of the reason, you got to remember what sales tax was designed for. Sales tax is designed to tax a nonresident, and think about that. It doesn't matter whether you're a nonresident of a city or whether you're a nonresident of a state, that's what that sales tax is for, is to tax someone that's not living as a resident in that area. Consequently, as you put a sales tax on everything, then more of your residents have to pay that tax and that's where your exemptions come in. They try to put in exemptions so that your residents aren't taxed quite as much as those passing through the states. And where Nebraska is a transportation state, why, it has done quite well for the state of Nebraska. When they talk about South Dakota, how well South Dakota has done, they've had a sales tax for years. They spend a ton of money on tourism to get people to come through there. They got some major destination points through that country on both ends of the state, the hunting in the east and the Black Hills in the west. And not only that, they have an Air Force base that isn't quite as big as Offutt but it's substantial in Rapid City. So a sales tax, they do quite well with the sales tax up there and it is for...I think they have less than a million population, whatever they are, so they do have quite a little bit of revenue from their sales tax compared to what the population base is. So this is what you...as we have to look at. Over the years, yes, there's been exemptions. Those exemptions have been put in there to make it so that people could probably get along better with it so that they weren't so regressive in places and make it so that we could probably go ahead and still do business. If you talk about doing the sales tax on everything and then doing away with the property tax, my question is, is how are you going to put the money back out to the counties out here that don't have these large retail sales in their counties? Will it be something like state aid to education? We saw where that went. Because when I was on the school board some 35 or 40 years ago, we funded our schools with our property taxes. Then, as state aid come along, everybody found ways that we could get more state aid if we spent a little bit more money. They took... [LB385]

SENATOR ROBERT: One minute. [LB385]

SENATOR LOUDEN: ...they took all the conservatism out of it with out state school aid. So are you going to get into an issue like that by giving back sales tax to your counties so they can operate if you're going to do away with the property tax? If you don't do that, then we still have the property tax at the county level and you just have more sales tax. And then you talk about your exemptions. Are you going to take the exemptions or what are you going to do about the cities that already have a 1.5 percent sales tax? If you cut it down to around 2 or so or 2.5 for...on the state level, then the cities will be collecting as much sales tax as what the state does. So there's a lot of issues there that I think have to be thought further. I think this is probably something...this debate, to me, today is something that should have been done around a table with a bunch of cups of coffee and a bunch of doughnuts, and that's what I think this type of discussion is good for. Until we come up with some real good ideas and have intestinal fortitude to fulfill

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them,... [LB385]

SENATOR ROBERT: Time. [LB385]

SENATOR LOUDEN: ...it's just idle conversation. Thank you, Mr. President. [LB385]

SENATOR ROBERT: Thank you, Senator Louden. Senator Karpisek, you are next. [LB385]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I don't want to take up time. I know we all want to try to get moving here. But I've been looking forward to this conversation for a long time and I do thank Senator Pahls for bringing this and I know he'd like to move further but I know the first thing he wanted was to have some discussion on the floor. I will not be voting to move the bill but I think we do need to talk about it, and it's gone well. There's a couple things I do want to say about the committee process. I agree that the committee process needs to be upheld, however, we have seen the committee process skirted around this year and the last two years that I've been here. We saw the concealed carry bill come to the floor and an amendment put on that was taken out in committee. I'm not criticizing that but it happened. I've got a bill that I finally got out of committee, and one of the committee members put an amendment on it that takes out what I fought to get in, in committee. Bad form. That is not the way that we do things. However, it happened and we'll deal with it. So to scold Senator Pahls at all for doing this is not appropriate. I would love that it would go on because I'd love the precedent to be set because I've got a bill stuck in committee that I would be bringing up here real quick and getting in Speaker Flood's ear. I did not prioritize it because I didn't want to hear what would happen. Now getting to the tax issue. Three billion dollars. I think \$3 billion a year that we could fund the schools. I think we're to about \$1 billion somewhere in there now. So that...again, I don't know if it's the right idea, the wrong idea. Senator Friend says he knows how to do it. Well, then Senator Friend, put in a bill. I'm sure that we'd like to talk about your idea too. The food issue. I was in the food business for 20 years. I saw a lot of food that wasn't taxed. Is it the right thing to do or not? I don't know but let's take a look at it. There are issues. I don't want to see poor people have to pay more money for their food. I think that can be worked around on the EBT cards. You could give them another 7 percent on there if that's the way to do it. Anyway, something that needs to be talked about. If we could do away with property taxes and if we could do away with income taxes, the businesses, I feel, should be on board. If they don't...to get rid of their exemptions but to turn around and not pay property or income taxes, to me that sounds like a pretty good deal. Ag exemptions come to mind and I'm...I'll fight for exemptions if we have some and then I think everybody needs to get their fair share. But we have seen what it has done. Ag exemptions, my goodness, if they didn't have to pay property taxes on their land? When I go to the courthouse and pay my property taxes just on my house, I squeal, but I see the farmer next to me writing a check for \$10,000, I don't squeal quite

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so much. So I think if they could get rid of their property taxes, maybe a little more sales tax on things might come out in the wash. [LB385]

SENATOR ROBERT: One minute. [LB385]

SENATOR KARPISEK: Again--thank you, Mr. President--I don't know that that's the right thing to do but I do applaud Senator Pahls for bringing this and taking a hard look at it...and the committee. I know that they've taken a look at it and there's probably other ways that they want to look at it and that's fine. But I do think we need to sit down and look at it and see what we can do. I think we could maybe even get people moving back. We keep hearing people moving to Arkansas and Missouri because of lower property taxes. Maybe they'd stay or come here. And businesses would probably come. So I think it's a great idea. Sit down. It's very complicated but thank you, Speaker Flood, for the opportunity for us to beat it around a little bit. And thank you, Mr. President. [LB385]

SENATOR ROBERT: Thank you, Senator Karpisek. Those wishing to speak: Senators Utter, Harms, Howard, Hansen, and others. Senator Utter, you are recognized. [LB385]

SENATOR UTTER: Thank you very much, Mr. President. Colleagues, what I really wanted to say was ladies and gentlemen, hoboes and tramps, cross-eyed mosquitoes and bowlegged ants. I think that this is an issue for all Nebraskans. Maybe not the cross-eyed mosquitoes and the bowlegged ants. But it's something that not only this body needs to be concerned about, but the businesses and the people of Nebraska need to take a good look at this. I was a member of the infamous Revenue Committee that put the kibosh on Senator Pahls' bills this year, and I did that reluctantly, to be honest with you, because I think that we do need to take a look at Nebraska's tax structure--not just the sales tax structure but the total tax structure. And we need to visit the tax burden that we place on Nebraska's citizens. Honestly, you take a look at the exemptions that have been granted in prior years and the exemptions that were proposed in the Revenue Committee this year, there's getting to be far more Swiss than cheese left in the tax structure. So I applaud Senator Pahls for bringing this bill forward because I do think it's something that we definitely need to look at. I'm not in a position...I didn't vote to bring it out of committee and I'm not sure that the timing is right to visit it in this body at this time, but it does have to be done. And at the same time we also have to take a look at the exemptions we're granting from paying income taxes and that are being applied to being exempt from paying income taxes. Because, quite frankly, if we keep granting these exemptions--and there was somewhere between 25 and 30 of them presented to the Revenue Committee this year--if we keep granting these exemptions, one of these days there'll be very few Nebraskans left actually paying the taxes and then we do have a serious problem. It seems to me that in the perfect world, that everybody participating in the cost of government to some extent and having a tax that is lower for everyone has some real benefits. So Senator Pahls, I appreciate

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your bringing this forward. I think it's something that this state needs to address and we need to begin doing that. And if I have any time left and Senator Pahls wants it, he can sure have it. Thank you. [LB385]

SENATOR ROBERT: Senator Pahls, 1 minute 50 seconds. [LB385]

SENATOR PAHLS: I appreciate that but I do think we have a few others who would like to comment and so I'm going to reserve mine until the end. Thank you. Appreciate it. [LB385]

SENATOR ROBERT: Thank you, Senator Pahls and Senator Utter. Senator Harms, you are next and recognized. [LB385]

SENATOR HARMS: Thank you, Mr. President and colleagues. I wonder if Senator Pahls would yield just for a quick question. [LB385]

SENATOR ROBERT: Senator Pahls, would you yield to a question? [LB385]

SENATOR HARMS: First, Senator Pahls, I want you to know that I'm not going to support this but I thank you very much for bringing it forward. I think it takes a lot of courage as a senator to do this, and thank you for doing this. I think it gives the Revenue Committee probably a good understanding about how people feel here. It's given you a much better reading, okay. And the question I have: Are you familiar with the Syracuse Tax Study that was done a number of years ago...many years ago? [LB385]

SENATOR PAHLS: 1988. [LB385]

SENATOR HARMS: Are you familiar with it? [LB385]

SENATOR PAHLS: Well, parts of it. I mean I handed out part of it today. There were, like I say, four areas that they described that we should exempt and we've only done one. [LB385]

SENATOR HARMS: Okay. What I wanted to bring up in regard to that tax study, I am familiar with that tax study and I will tell you that it was...it occurred when Governor Orr was Governor and Senator Vard Johnson was the senator who maneuvered this through this floor. That study cost about I think about \$250,000, \$300,000 at that time. And the people who did it from the University of Syracuse were recognized nationally as tax experts in the field of taxation for states. The document, people, is a wonderful document. It's a great base to work from. It gives us a great understanding about our tax issues clear back then. Not much has changed other than you've got more exemptions. And your taxes have gone up but the issues are still the same. And I would be in hopes

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if we're going to really look at this, Senator Pahls, that we would use that as a base and...because it will be a good opportunity for us to have a much better understanding. I don't think you can just work on the exemption side of it. I think you've got to understand the full picture of that and I think that would be very helpful if people would do that. I'm assuming that study is still around. Sure. [LB385]

SENATOR PAHLS: May I respond? [LB385]

SENATOR HARMS: Yes. I'd like to yield another question...or to... [LB385]

SENATOR ROBERT: Senator Pahls, will you yield to a question? [LB385]

SENATOR PAHLS: Yes. I have a copy in my office and it is...it's ancient, and like I say, one of the first handouts I did hand out dealt with that Syracuse study and the four recommendations. And like one that we have enacted, and that's not my opinion. That was from the research department. And there...that's...between that and the one we just did a couple years ago, we do have a basis to work from. [LB385]

SENATOR HARMS: Isn't that amazing though, for how long ago that study was done, and the issues really haven't changed much, have they. [LB385]

SENATOR PAHLS: Yes. [LB385]

SENATOR HARMS: Except it's just a little worse than it was when we studied it. [LB385]

SENATOR PAHLS: Right. There are more exemptions. [LB385]

SENATOR HARMS: And so I really thank you for doing this and as I said I think it takes courage to bring this kind of thing forward and go against the opposition of a committee. But I think it's important for us to understand that maybe it is time for us to look at the whole tax structure here. Maybe it is important for us to take a good look at what research has already been done. I would be in hopes, Senator, as you look at this, that you think very carefully through this of whether or not you will need some outside expertise to guide you through this issue or not. I don't know if that's where you want to be or what you're going to want to do but I think it's something that we need to look at carefully because it's pretty comprehensive. This is a tough decision to make and it will have impacts on every phase of government and our taxpayers. So I thank you very much, Senator Pahls, and I would yield any time I have left for you. How much time do we have left? [LB385]

SENATOR ROBERT: 1:12. [LB385]

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SENATOR HARMS: Well, it's yours. [LB385]

SENATOR PAHLS: Thank you, Senator. I appreciate that. What brings some lightness to me is that we do have a number of senators who are saying we need to take a look at this. And you've indicated you may not be ready to say today, we want to look at this particular bill, but I think we are sending a message not only to the taxpayers but to ourselves and to the people on the other side of the glass that it is time; it is time to do that. And I thank you, Mr. President. [LB385]

SENATOR ROBERT: Thank you, Senator Pahls and Senator Harms. Senator Howard, you are next and recognized. [LB385]

SENATOR HOWARD: Thank you, Mr. President and members of the body. (Voice with laryngitis.) Please bear with me but this is too important not to comment on. Senator Pahls, thank you. Thank you for bringing this to the floor. You know, when we leave money on the table or let it trickle through our fingers, we don't have money to spend on things that are really vital to us in this state. And one of my serious concerns is the amount of money that we're losing for our educational system. We have received in excess of \$234 million from the federal stimulus money, and yet--and yet--due to our funding problems Omaha is in a position where they are going to be laying off teachers. The biggest school district in this state is not going to be able to afford adequate teaching staff for the number of children that they have. In fact, just this week notices went out to 100 teachers in the Omaha school district that they will not be given contracts for the next school year because there simply isn't the money in the budget. And again, this is despite the \$234 million that's coming from the federal government. If we can turn our backs on the needs of school children and take the offset of funding more judges, because more of these kids are going to go through the juvenile court system, more of these kids are going to grow into people that become people in the court system and consequently in the prison system. We need to look at what we are doing regarding revenue. We cannot continue to fund the state on the backs of the average citizen. The average person pays the freight and that's absolutely wrong. Thank you, Senator Pahls, for bringing this to the floor. I'd be more than happy to work with you. Hopefully I'll get my voice back in time. But this is a critical issue and I think the average citizen says, why is the bill always on us? Why are we at our lid levy? Why are we the ones that always get the bill for the state of Nebraska and why is there so much revenue that's not collected from business? Thank you. [LB385]

SENATOR ROBERT: Thank you, Senator Howard. Those wishing to speak: Senator Giese, Senator Price, Senator Pirsch, Senator Lautenbaugh, Senator Langemeier, Senator Council, and Senator Haar. Senator Giese, you're next and recognized. [LB385]

SENATOR GIESE: Thank you, Mr. President and members of the body. I rise today not

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in support or opposition to Senator Pahls' bill but just a comment on the process of where we're at today. I apologize; I wasn't in the room when Senator Flood did his introduction this morning, but I just want the body to know that we all have priority bills, and some bills make it to the floor and some bills do not. I have a priority bill concerning the expressways that is stuck in committee that we've done a lot of work on and it did not make it to the floor. So what are we to do as a senator? We go back, we work on the bill, we try to make it better, and we bring it to the floor, which we have done and we will bring it back again. So we all have issues that we want to bring to the floor and there are certain times and ways that that can be done, and I just don't think that this is appropriate for this discussion today, because if that was the case we'd be talking about expressways and not taxes. Thank you, Mr. President. [LB385]

SENATOR ROBERT: Thank you, Senator Giese. Senator Price, you are next and recognized. [LB385]

SENATOR PRICE: Thank you, Mr. President and members of the body. I was going to rise up and offer all my time to Senator Pahls, but Senator Pahls says he doesn't need time so I'm going to take all up on my own. (Laugh) No, my question and my statement comes to the fact that this red book that we have here called our Rules Book and our Rules Committee. If we didn't want to do it, it shouldn't be in the book. It's as simple as that. If we didn't want to do it, it shouldn't be in the book. We all had an opportunity to weigh in on the rules book and say what you can and can't do. Now to the matter of what is good form, good form I guess is relative to the position you have. If it's against your bill it's bad form; if it's for your bill it's good form. So Senator Pahls, I appreciate you bringing this up. I would submit that in any study that would be going forward that we look at...when we talk about the evil businesses and their tax breaks, we look at the individuals who are employed. I'm never ceased to be amazed when we focus on one aspect of something and we don't look at the surrounding environment that causes that condition. When we talk about the Nebraska tax advantage plan and the super advantage. I just met a businessman the other day who's going to move a business into the incubator area that at Peter Kiewit out there at the Scott Technology Center. It's a business that has something to do with biometrics, and that's going to bring jobs to Nebraska, to the university, and to the surrounding area. But, oh my gosh, it's such a horrible thing perhaps if you gave him a break. I guess we don't want to have people employed. So let's just be very, very cautious that we don't throw the baby out with the bath water; that we look for what's good. When you create something out of nothing, like when the movies...we just had a producer come through. They filmed a movie in the Bellevue area. And what's great about that is that's like, that's almost like manna. They came in here. They gave you money you had nothing to do with and you got a chance to tax that money at a rate. Now what are we going to do, close our doors and say no? So we have to be very judicious in what we do here. There is no reason to support the Swiss cheese tax code we have now, for sure, but we need to be judicious and you can imagine that if we actually pulled this out of committee...it would actually be funny to see

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the cluster out there in the lobby, to see how many people would show up in front of our offices and our homes and our e-mail box if we decided to pull this out and watch the lobby go crazy here and come out back from their lunches. But we're not going to do that and I won't support the pulling out because obviously we're going have to do a lot more work. Thank you, Mr. President. [LB385]

SENATOR ROBERT: Thank you, Senator Price. Senator Pirsch, you are next and recognized. [LB385]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I'm not going to comment on the substance of Senator Pahls' proposal. That's not my purpose in rising here today, but rather talk about legislative procedure and process--issues that fall along the lines that are kind of keyed by Speaker Flood's earlier comments here regarding committees and their roles here in the Legislature. And I know that there is...it's a balancing test, but there is a number of bills that are introduced here. We can't consider all; just do the large volume of them and so that we have created this committee process to, as at least some sort of logical mechanism, hoping that the cream rises to the top and that we spend our precious time debating those bills that make the most sense, and that certainly is a weighty thing to put on the scales. But I think that if there is a risk that exists to this body from in looking at those scales, that it is the other way; that we are concentrating rather too much power in the hands of the committees which are composed of just a few senators. Keep in mind, we are a body of equals. Whether we are on certain committees or not, the mere fact that I am not on Education Committee or Health and Human Services does not make those issues less important to my constituents nor my interest in the matter lessened. And committees, as we know, are controlled by as few as four senators on these seven-member committees. Very important committees. Health and Human Services, I believe seven members on that committee. Business and Labor, Urban Affairs, etcetera. So four...when we talk about the committee position we're talking about four state senators in a body of 49. We're talking about 8 percent of the floor have screened it and didn't like a bill. I think that should be helpful and instructive and certainly should be known to the body and their position, but that should...we shouldn't slavishly follow the decision of four senators just because that's what they...you know, they sit on that committee. And we always...and again we're a body of equals, and you don't check in your common sense nor your powers at the door. And so I think it is, in terms of procedure, we...I think the danger here is that we are too often deferential and slavishly follow the dictates of, well, that's an issue that isn't on a...pertain to a committee that I sit on, therefore I have to be deferential. And so I would just say that the risk exists on the other end of the spectrum. Again there is other barriers. Should this be a bill that is considered...that the committee didn't like; that the senator then tried to bypass the committee and bring it to the floor directly. If it is a matter of such trivial consequence, there are other filters. The Speaker need not schedule the matter on the agenda. And so in this case it was, but... [LB385]

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SENATOR ROBERT: One minute. [LB385]

SENATOR PIRSCH: I guess the points that I wanted to bring out, I brought out. And I would just say that with respect to the substance, I'm not weighing in on, but this is kind of just an ongoing thought that I'd ask you to keep in mind because it will apply in other situations as well, so thank you. [LB385]

SENATOR ROBERT: Thank you, Senator Pirsch. Senator Langemeier, you are next and recognized. [LB385]

SENATOR LANGEMEIER: Mr. President and members of the body, I thank everyone for the great discussion and I commend Senator Pahls for his attempt here, however I don't support it. Some of the concerns I have is, I sat on Revenue Committee for two years, and the majority of the exemptions we get brought to the Revenue Committee are: Iowa was doing it, we need to do it; Kansas is doing it, we need to do it; South Dakota is doing it, we need to do it; it's all border bleed issues. And so this gets to be a bigger picture as we just try and throw these exemptions all out. Then we get back to the border bleed. We need to--an odd thing--we need to talk to our neighbors, I think, and try and come up with a plan to keep us all whole across the nation and deal with this issue on a little bigger basis. And I look forward to Senator Friend's plan as he has talked about bringing something. I look forward to that discussion. At this time I'm not ready to support this motion to pull this bill because I think it's a little bigger than just exemptions in Nebraska and those that stand outside the glass that want money. I think it gets back to that border bleed and how we deal with that. And with that, thank you, Mr. President. [LB385]

SENATOR ROBERT: Thank you, Senator Langemeier. Senator Council, you are next and recognized. [LB385]

SENATOR COUNCIL: Yes, thank you, Mr. President. I'll be very brief. I think that this issue has received the type of debate that it deserves. I don't think anyone in this body disputes the fact that we need to thoroughly and, I think, completely review the tax structure in the state of Nebraska. There is no question that a number of citizens leave our state because of the nature of our tax structure and that we need to review the way we tax people and what is the best way to provide the revenue that this state needs. And when we start talking about sales taxes and the types of exemption...and I've heard the discussion with regard. I mean, we all have interests that we would like to see preserved or protected through sales tax exemptions, and I don't think there's any doubt in anyone's mind that for me the sales tax on food is one of those issues. But when I initially pressed my light to be heard, I was going to raise a point similar to the point that has been raised by Senator Price and others. I have no objection and take no offense to Senator Pahls presenting this motion, and that is because we did adopt rules at the

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beginning of this session. We did have an opportunity to weigh in on those rules. And if we had any concern about the effect that Rule 3, Section 18, would have on the work of committees, we could have taken action to address that. Now after saying that, I will say that I cannot support Senator Pahls on this motion because clearly the fact that the committee voted unanimously not to advance this bill is an indication that this is an issue that this committee believed, at a minimum, was deserving of much greater attention than what was represented in the bills that were presented. Clearly this is an issue that deserves a lot of study and that it should be presented to this body for the type of debate that is currently being committed to it, but even deeper debate than is occurring today, because we're just talking in generalities and without having an opportunity to study each of these exemptions and the effects and the revenue projections that would result from the action that we take. But principally, I rise in defense of the rules of this body and the fact that Senator Pahls proceeded in accordance with the rules of this body and then it will be the decision of this body whether or not to place this piece of legislation on General File. [LB385]

SENATOR ROBERT: Thank you, Senator Council. Senator Haar, you're next and recognized. [LB385]

SENATOR HAAR: Mr. President and members of the body, I'll be very brief. We got orientation, those of us who are new, from...and one of the speakers was Senator Raikes and he said, above all, be sure you don't give away your tax base, and I think that speaks directly to Senator Pahls' concerns. Senator Pahls, I appreciate that you challenge us. You also brought a bill to the Education Committee with some challenging ideas and I look forward to looking...to working on these in the future. Thank you very much. [LB385]

SENATOR ROBERT: Thank you, Senator Haar. Seeing no other members wishing to speak, Senator Pahls, you're recognized to close on your motion to place LB385 on General File. [LB385]

SENATOR PAHLS: Thank you, Mr. President and members of the body. What I'd like to do is have a call of the house and I will continue my dialogue. Is that doable? [LB385]

SENATOR ROBERT: Members, there has been a request for a call of the house. All those in favor vote yea; opposed, nay. Senator Pahls, the clock is running. If you would like to start your closing. [LB385]

SENATOR PAHLS: Thank you. There's just one issue that I need to talk to you about before I give my final words. [LB385]

SENATOR ROBERT: Excuse me, Senator Pahls. Mr. Clerk, will you please record. [LB385]

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ASSISTANT CLERK: 27 ayes, 0 nays to go under call, Mr. President. [LB385]

SENATOR ROBERT: Members, the house is under call. All members return to the floor. All unauthorized personnel please leave the floor, and please check in, members. Senator Pahls. [LB385]

SENATOR PAHLS: Mr. President and members of the body, there is one final packet that I'm handing out to you that I would like to make sure that I could have you take a look at it and take a serious look at this. It has a picture of a person talking about a tax loophole. What I would like to have you do is flip to the third page and I'm going to give you an idea of some of the issues that we're up against. The Department of Revenue gives recommendations on some of our tax issues and I want you to take a look at the column starting in 2008 under the recommendations. The Nebraska Department of Revenue has no recommendations. Now this is taken right from their Web site. Let's take a look at 2006 Nebraska tax exemption report--no recommendations; 2002, no recommendations; 2000, no recommendations; 1998, no recommendations; '96, no recommendations; '94, no recommendations; '92. Now as you take a look across, you can see what page you can find that on. But I really...of interest is '79. You can see this is from the old type. We made a copy of that and let me read that. The Nebraska Department of Revenue recommends that the members of the Legislature review the materials included in this report and, if appropriate, submit to the next session of the Legislature any necessary legislation relating to the matters outlined in this report. To that end, the Department of Revenue will be available to assist any member of the Legislature in the formation and drafting of any legislation that the member of the Legislature may desire to propose. So I think apparently we're not asking for help from them because you can see all the recommendations I have listed there--and these are taken from their Web site--so I just want to bring that. That is the type of information that I have been handing out today. Now before we come to a vote, here is a proposal. I have been listening to almost every senator who has spoken. They're telling me or telling us that they have a concern. The department...the Revenue Committee Chair says she is interested in looking at taxes in the future. I've heard we need to do a study. Well, this is my proposal, because I know some of you people said that you cannot send this bill to the floor. This is my proposal. Vote this bill to the floor to General. I promise you that I will not do anything with this bill. I will allow the Revenue Committee to utilize this as a vehicle for legislation that would occur next year because this bill could be held over. In other words, the bill could be amended because I have heard people say we need to do this. [LB385]

SENATOR ROBERT: One minute. [LB385]

SENATOR PAHLS: I think we need to hold ourselves, the lobbyists on point, so I say if you would vote this bill, I promise you I would not do anything...well, I couldn't without

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your help. That bill could lay over and they could use this as their vehicle. It would be a priority bill. It would be one of the first bills up and they could come with their proposal, and I would love to work with them but if they say, no, Senator, we can do this ourselves. But this would be a priority bill for them to utilize. They would amend my stuff out of it and bring in their idea, beyond the agenda, early in the year. That is the issue that they would be in control of this bill and it would be out on the floor under their jurisdiction. I would help them as much as possible. And if they would tell me that, Rich, you are messing these things up, I promise you right now if I...if it looks like I'm doing that... [LB385]

SENATOR ROBERT: Time, Senator. [LB385]

SENATOR PAHLS: ...I would resign my position. I am that serious about this. [LB385]

SENATOR ROBERT: Time. [LB385]

SENATOR PAHLS: Thank you. [LB385]

SENATOR ROBERT: Members, you have heard the closing to MO32, the motion to return LB385...or to bring LB385 to General File. All those in favor vote yea; opposed, nay. Have all those voted who care to? Mr. Clerk, please record. [LB385]

ASSISTANT CLERK: 15 ayes, 29 nays on the motion to place the bill on General File, Mr. President. [LB385]

SENATOR ROBERT: MO32 fails. I raise the call. Items for the record, Mr. Clerk. [LB385]

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports LB131, LB133, LB113, LB163, LB434, LB348, LB540, LB528, LB450, LB274, LB339, LB412, LB27, LB175, LB129, LB208, LB94, all to Select File, some with E&R amendments. Bills that were read on Final Reading this morning have been presented to the Governor. (Re LB111, LB121, LB121A, LB164, LB202, LB202A, LB206, LB292, LB300, LB328, LB328A, LB340, LB355, LB361, LB396, LB449, LB458, LB477, LB511, LB517, LB547, LB547A, LB620.) Amendment to LB129 from Senator Dubas, that will be printed in the Journal; as well as an amendment to LB35A for Senator Ashford. (Legislative Journal pages 1126-1128.) [LB131 LB133 LB113 LB163 LB434 LB348 LB540 LB528 LB450 LB274 LB339 LB412 LB27 LB175 LB129 LB208 LB94 LB111 LB121 LB121A LB164 LB202 LB202A LB206 LB292 LB300 LB328 LB328A LB340 LB355 LB361 LB396 LB449 LB458 LB477 LB511 LB517 LB547 LB547A LB620 LB129 LB35A]

SENATOR ROBERT: Next item on the agenda, Mr. Clerk, General File, 2009 Speaker

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priority bills. []

ASSISTANT CLERK: Mr. President, LB237, introduced by Senator Lathrop. (Read title.) The bill was read for the first time on January 13 of this year; referred to the Committee on Judiciary. That committee placed the bill on General File with committee amendments attached. [LB237]

SENATOR ROBERT: Senator Lathrop, you're recognized to open on LB237. [LB237]

SENATOR LATHROP: Thank you, Mr. President, colleagues. LB237 was introduced at the request of the Nebraska State Probation Administrator and would repeal the current Interstate Compact on Juveniles and adopt the updated version of this compact, the Interstate Compact for Juveniles. The compact was first established in 1955 and is an agreement between the states that provides for the uniform tracking and supervision of juveniles on probation that move across state borders. In 1999, an effort was initiated to update and improve the compact due to growing concerns with the adequacy of the old compact. Many states had experienced significant problems with that compact, including the lack of appropriate system of reviewing and addressing disputes among the states. As a result, the Council of State Governments and the Office of Juvenile Justice and Delinquency Prevention developed an advisory and drafting group that created the new Interstate Compact for Juveniles. An article by the Council of State Governments regarding the new compact will be given to you so that you can gain a better understanding of the need for this legislation. The article discusses why the new compact is needed and shares the tragic example from North Dakota that took place when a young person on probation in another state moved to North Dakota and was there unsupervised. This youth was later involved in a murder in rural North Dakota. In 2003, North Dakota became the first state to adopt the new compact, and last fall Illinois became the thirty-fifth state to adopt the new compact. With the adoption of the compact by the thirty-fifth state, the formation of the national commission was triggered and the compact is now moving forward without Nebraska's involvement. A national meeting was held in December '08, and in December '09 the old compact will cease to exist and be replaced by this new compact. If Nebraska does not pass LB237, we will no longer be a part of any compact and we would have to negotiate reciprocal agreements with each and every state. At the committee hearing, LB237 received support from the Nebraska State Probation Administration, the Department of Health and Human Services, and the Nebraska State Bar Association. LB237 is legislation that is necessary and I would urge you to support it. Just as an additional comment, the idea and what we are getting at with this legislation is if there is a juvenile, say, in Minnesota that needs to be placed in Nebraska, this compact allows for that to take place and for each state to have an understanding without negotiating that understanding each and every time with the transferring state. It has been passed in over 35 states and has the support, as I said, of not only the Bar Association, but Health and Human Services and the Probation Office. Thank you, Mr. President. [LB237]

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SENATOR ROBERT: Thank you, Senator Lathrop. Members, you have heard the opening to LB237. As the Clerk has stated, there are committee amendments. Senator Ashford, as Chair of the Judiciary Committee, you are recognized to open on AM870. (Legislative Journal page 943.) [LB237]

SENATOR ASHFORD: Thank you, Mr. President and members. This amendment, AM870, expands the scope of LB237 to include children who have been placed across state lines for foster care, relative placement, or adoption. And what has occurred in those cases is that, as is the case with Senator Lathrop's original bill, there is a compact which has been created to address the issues that arise out of adoption and other related jurisdictional questions. Nine states have adopted that compact, as is the case with Senator Lathrop's original bill. Thirty-five states are required to approve the compact before it comes into effect. And again, HHS came into the hearing on Senator Lathrop's bill and asked us to consider expanding the scope of the bill to the adoption situation or relative placement situation to allow agencies to talk to each other and better communicate on the issues involved in these various cases. And with that, Mr. President, I would urge the adoption of AM870. [LB237]

SENATOR ROBERT: Thank you, Senator Ashford. Members, you've heard the opening to AM870 to LB237. Are there members wishing to speak? Seeing none, Senator Ashford, you're recognized to close. Senator Ashford waives his opportunity. The question before the body is, shall AM870 be adopted to LB237? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB237]

ASSISTANT CLERK: 38 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB237]

SENATOR ROBERT: AM870 is adopted. Returning to discussion on LB237, are there members wishing to speak? Seeing none, Senator Lathrop, you're recognized to close. Senator Lathrop waives his opportunity. The question before the body is, shall LB237 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB237]

ASSISTANT CLERK: 39 ayes, 0 nays on the advancement of the bill. [LB237]

SENATOR ROBERT: LB237 does advance. Next item on the agenda, Mr. Clerk. [LB237]

ASSISTANT CLERK: Mr. President, LB237A by Senator Lathrop. (Read title.) [LB237A]

SENATOR ROBERT: Senator Lathrop, you're recognized to open on LB237A.

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[LB237A]

SENATOR LATHROP: Thank you, Mr. President. These funds appropriate...or the bill appropriates the funds necessary to support the compacts that we just passed and I'd ask for your approval. Thank you. [LB237A]

SENATOR ROBERT: Thank you, Senator Lathrop. Members, you have heard the opening to LB237A. Are there members wishing to speak? Seeing none, Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is, shall LB237A advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB237A]

ASSISTANT CLERK: 33 ayes, 0 nays on the advancement of the A bill, Mr. President. [LB237A]

SENATOR ROBERT: LB237A does advance. Next item on the agenda. [LB237A]

ASSISTANT CLERK: Mr. President, LB92 was introduced by Senator Howard. (Read title.) The bill was read for the first time on January 8, referred to the Committee on Transportation and Telecommunications. That committee placed the bill on General File with committee amendments. [LB92]

SENATOR ROBERT: Senator Howard, you're recognized to open on LB92. [LB92]

SENATOR HOWARD: Thank you, Mr. President, members of the body. I will do my best. (Voice with laryngitis.) Today I bring LB92, the "Move Over Bill," to you for your consideration. The purpose for this bill is simple. I want to prevent injury and possibly death among individuals who serve others on our state highways. LB92 would require motorists on Nebraska's controlled-access highways with at least two available lanes traveling in the same direction to yield the right-of-way to a stopped authorized emergency or road assistance vehicle. The authorized vehicle must be using proper audible and visual signals. Motorists would be required to move onto a lane at least one lane apart from the stopped vehicle unless otherwise directed by a peace officer or other authorized personnel. If moving to another lane is not possible due to weather or road conditions, the approaching driver shall maintain a safe speed and proceed with caution. If the controlled-access highway does not have two available lanes traveling in the same direction the approaching driver shall maintain a safe speed and proceed with caution. Violators of this section would be guilty of a traffic infraction for the first offense and a Class IIIA misdemeanor for a second and subsequent offenses. Let me be clear, however. This bill is not intended to be a revenue generator for law enforcement. The purpose of the law is to heighten awareness about the importance of yielding to emergency and road assistance workers in order to increase public safety. Nebraska is only one of five states that do not have the move-over law. All of the states contiguous

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to Nebraska do have move-over laws. Anecdotal reports from other states are telling us that move-over laws improve public safety. There have been concerns raised about the ability to enforce the provisions of this bill and I acknowledge that in some situations enforcement may be difficult. Ideally, what we would like is to not have concerns about the enforcement because people are following the law. Let me assure you, however, that the Nebraska State Trooper vehicles are equipped with dash-mounted cameras. In fact, some of the photos that were made available during the hearing illustrating the potential dangers for these responders were captured by cameras mounted in law enforcement vehicles. In addition, AAA is supporting the bill and has received numerous calls from drivers who have violated these laws in other states, inquiring about what recourse they might have. In Iowa, for example, 1,123 drivers were convicted of move-over law violations between 2007 and 2008. Others have argued that moving over is a common-sense driving strategy and that all people should know and apply. But it can only be common sense if everybody knows it. Many motorists have never been stopped on the side of the road and don't realize the potential for danger. They are unaware that they can avoid danger if they move over to yield the right-of-way to emergency and roadside assistance vehicles. I don't believe that drivers are intentionally inconsiderate. They are just not informed. There is no information contained in the Nebraska driver's manual regarding moving over because it's not the law. We no longer provide driver's education in schools where these types of defensive driver safety strategies are taught, so how can we assume that people will know they need to move over if there is no place for them to formally receive that information. This is a simple bill that improves driver awareness and public safety. It has the potential to decrease unnecessary danger for the public and our roadside responders, and advancing LB92 sends a message to those who risk their lives every day to help others that we value and appreciate the work they do, and I ask for your support of this bill. Thank you. [LB92]

SENATOR ROBERT: Thank you, Senator Howard. (Visitor introduced.) Members, you've heard the opening to LB92. As the Clerk stated, there are committee amendments. Senator Fischer, as Chair of the Transportation and Telecommunications Committee, you are recognized to open on AM305. (Legislative Journal page 449.) [LB92]

SENATOR FISCHER: Thank you, Mr. President and members. The committee amendment, AM305, makes one significant change by expanding the scope of vehicles that motorists are required to move over for. In addition to proceeding with due care and caution when approaching or passing a stopped authorized emergency vehicle, the amendment requires a driver to use the same care when approaching or passing a road assistance vehicle. A road assistance vehicle includes a vehicle operated by the Department of Roads, a State Patrol motorist assistance vehicle, or United States Department of Transportation registered towing or roadside assistance vehicle. This change will ensure that roadside motorist assistance vehicles we have become

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accustomed to on the side of the road will be protected under this law. These volunteers are subjecting themselves to the same level of risk that our law enforcement and emergency response personnel are subjected to, and the committee felt that they also needed to be covered under this move-over law. A vehicle under the roadside assistance definition is required to emit a warning signal through properly displayed emergency indicators. Thank you, Mr. President. [LB92]

SENATOR ROBERT: Thank you, Senator Fischer. Speaker Flood for an announcement. [LB92]

SPEAKER FLOOD: Thank you, Mr. President and members. Good afternoon. It's my intention to adjourn immediately following a resolution of this bill, until Monday. Thank you, Mr. President. [LB92]

SENATOR ROBERT: Thank you, Speaker Flood. Members, you have heard the opening to AM305, the committee amendment. Mr. Clerk, we have an amendment. [LB92]

ASSISTANT CLERK: Mr. President, Senator Howard would move to amend the committee amendments with AM328. (Legislative Journal page 469.) [LB92]

SENATOR ROBERT: Senator Howard, you're recognized to open AM328, the amendment to the committee amendments. [LB92]

SENATOR HOWARD: Mr. President, members of the body, I'm going to ask Senator Fischer to continue. I yield my time to her. Thank you. [LB92]

SENATOR ROBERT: Senator Fischer, will you open on AM328, please. [LB92]

SENATOR FISCHER: Thank you, Mr. President and members. As you all can tell, Senator Howard is having a little problem with her voice today. This amendment will clarify the intent on the signage portion of the bill. We felt that that was important, and Senator Howard offered this amendment to it and it will be to the committee amendment. I would like to say that this bill was advanced from committee last year. It was on the floor. We just didn't have time to get to it. If you look at the committee statements you will see the number of supporters that came to the hearing on the bill. There were no opponents at the hearing on the bill. With that I would urge advancement of this amendment to the amendment. Thank you, Mr. President. [LB92]

SENATOR ROBERT: Thank you, Senator Fischer and Senator Howard. Members, you have heard the opening to AM328, the amendment to the committee amendments. Those wishing to speak: Senators Pirsch, Lautenbaugh, Wallman, Stuthman, and Hadley. Senator Pirsch, you are recognized. [LB92]

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SENATOR PIRSCH: Thank you, Mr. President and members of the body, and I appreciate Senator Howard's commitment, being here today. I know that she's very much under the weather and being here I think demonstrates her commitment to this bill. I think it's a very good bill. I have gotten input from people in my district who are motorist assist, employed in that capacity, who are very strongly in support of this. You know, I can't tell you anecdotally how many times I've been driving by down the interstate and have seen people changing tires or standing by the side of broken down cars, and vehicles whizzing by them within a matter of feet or inches, so. And as a prosecutor for nearly a decade, I can tell you that a lot...I have seen a lot of bad results happen as a result of people who don't employ their common sense. It just doesn't strike them. And so I think this will help to imbue that. I'd yield the balance of my time to Senator Stuthman if he would like to receive that. [LB92]

SENATOR ROBERT: Senator Stuthman, 4 minutes. [LB92]

SENATOR STUTHMAN: Thank you. Thank you, Mr. President, and thank you, Senator Pirsch. I would just like to ask Senator Fischer a question. [LB92]

SENATOR ROBERT: Senator Fischer, will you yield to a question from Senator Stuthman? [LB92]

SENATOR FISCHER: Yes. [LB92]

SENATOR STUTHMAN: Senator Fischer, in the bill in the amendment, this deals with the controlled-access highway. Those are the four-lane highways? Does it deal with any of the two-lane highways? [LB92]

SENATOR FISCHER: As the bill is written currently, no, it does not. If you remember, we talked about that in committee and no amend...that was not included in our committee amendment, to extend it to any highway in the state. [LB92]

SENATOR STUTHMAN: In the amendment it says if a controlled-access highway "does not have two available adjacent lanes of travel in the same direction on the same side of the highway..." Would this mean that in the instance of construction or anything like that of a controlled-access highway with four lanes and they move them all over to the two lanes, would that...is that what that means, or does it mean that a highway that is not a controlled-access highway but is a highway of two lanes? [LB92]

SENATOR FISCHER: Senator Stuthman, the definition of controlled access isn't dependent upon four lanes. [LB92]

SENATOR STUTHMAN: It isn't dependent upon four lanes then. [LB92]

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SENATOR FISCHER: It is not. [LB92]

SENATOR STUTHMAN: Okay. Okay, so then that addresses another question. And if a controlled-access highway or other highways and the A bill to it only had 41 signs for the state of Nebraska, I feel that, you know, if we're going to really address this situation, which I am supportive as far as the people that assist, the ambulances and stuff that come along. I'm very supportive of that, that people should slow down, move over if possible, and...but I just think the A bill doesn't fit for what a real intent of it is. So with that, thank you, Mr. President. [LB92]

SENATOR ROGERT: Thank you, Senator Stuthman. Senator Lautenbaugh, you're next and recognized. [LB92]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I'd like to engage in a protracted dialogue with Senator Howard but I'm not going to do that today for a variety of reasons; chief among them is, cigars don't smoke themselves. But I would like to point out that we debated this very fully in committee and the signage was an issue. Last year I think we advanced this bill without any money for signage. And if you think about it, most of the rules of the road you won't find on signs. You're charged with knowledge of them, and all the states around us have this rule and we think it's an important rule. We didn't want to spend a ton of money on new signage, because again, we don't post signs for everything we do, rule-of-the-road-wise. And I would just urge you to advance this bill. The enforcement concerns, I don't think...you know, the question was, well, how are we going to enforce that if a police officer isn't there? Well, that's true of the speed limit as well. I thank Senator Howard for bringing this. I'd urge you support the amendments and support the underlying bill. [LB92]

SENATOR ROGERT: Thank you, Senator Lautenbaugh. Senator Wallman, you are next and recognized. [LB92]

SENATOR WALLMAN: Thank you, Mr. President. I, too, support the amendments and the bill, and the highway patrol thanks you. They've been after me ever since I've been in here to put some bill out here like this. Iowa has it and they do slow down and move over. I live along an expressway and it seems like some people see how close they can get to you if you're fixing your car or something, or somebody else's. So the EMTs and the highway patrol thank you. Thank you, Mr. President. [LB92]

SENATOR ROGERT: Thank you, Senator Wallman. Senator Hadley, you're next and recognized. [LB92]

SENATOR HADLEY: Mr. President and members of the body, I'll speak real quick. One minute on the enforcement part of this issue. Remember, a big part of having laws is

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that they may be hard to enforce but by having the laws you do have people who respond and do follow the law. We don't catch every speeder but by having a speed limit law we slow people down. By having a move-over law, they may be hard to catch but people will move over. With that I will sit down. [LB92]

SENATOR ROBERT: You may be seated. Thank you, Senator Hadley. Senator Council, you are next and recognized. [LB92]

SENATOR COUNCIL: Yes, thank you, Mr. President. I too rise. I support the underlying bill and AM305. I have some difficulty. I understand it is a cost issue. I certainly appreciate Senator Lautenbaugh's point with regard to the rules of the road, but we want to compare ourselves to other states, and other states do post the signs that indicate what is considered an emergency vehicle. And to make a change that applies to just tow trucks...and certainly we all want to see safe operations on the highway. We want to see people move over when they see these roadside assistance vehicles, but I think we need to provide notice to motorists, whether we direct the Department of Motor Vehicles to change the booklet on the rules of the road, or whatever, to put people on notice that the rule to pull over when there's an emergency vehicle applies to tow trucks. I don't know how many of us see a Department of Roads truck on the side of the road with just their flashers and all we see is a Department of Roads truck, and automatically move over to the next lane. But by definition here, I'm required to do that whether that Department of Roads truck is administering aid or not. It's just if I see it with their flashing lights on. And I just think that we need to provide notice to the motoring public that that's the expectation, and their failure to comply would result in a traffic citation, and a second offense, a misdemeanor criminal charge. And maybe I'll ask Senator Fischer to yield to a question as to what in terms of the signage was the reason the committee was willing to eliminate the statement that it has no effect until the signs are posted. [LB92]

SENATOR ROBERT: Senator Fischer, will you yield to a question? [LB92]

SENATOR FISCHER: Yes, I will. Would you like me to answer that question then, Senator Council? [LB92]

SENATOR COUNCIL: Yes, please. [LB92]

SENATOR FISCHER: The amendment AM328 to the committee amendment came from Senator Howard and I do support it. The reason for that amendment is that if funds are not available the law will still take effect. [LB92]

SENATOR COUNCIL: So without...so the intent is that motoring public, you figure...you find out in whatever way you find out that that's now the law that you're subject to. [LB92]

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SENATOR FISCHER: Currently, there are only seven states, including Nebraska, that don't have a move-over law. All of our surrounding states have a move-over law. So if people are coming in from Iowa or Kansas, if they've been abiding by that law there, I guess we are just thinking, you know, if the funds aren't available to put signage up here in Nebraska, it will carry over. And the majority...as I said, the majority of states have a move-over law. [LB92]

SENATOR COUNCIL: And with all due respect to Senators Fischer and Howard, and in those states as soon as you enter those states there are big signs that alert the motoring public that they have a move over, and I just think that that's...I think it's a leap to say, well, if you know they do it in Iowa, now you ought to know we do it in Nebraska. I just have a problem with not providing notice to the public. And again, I want to make it clear, I have no objection at all. I think the underlying bill and what is sought to be accomplished here needs to be accomplished. But I have a problem with subjecting people to violations that could rise to the level of criminal. Hopefully, if you get caught the first time, you won't do it a second time. But in any event, to get a traffic citation when you just simply didn't know that, you know, things have changed. And really the way the bill is written, just simply stop passing a Department of Roads truck that's on the side with their lights flashing, whether or not they're actually rendering aid, could subject you to a traffic citation. I think the motoring public needs to be aware of that. [LB92]

SENATOR ROBERT: One minute. [LB92]

SENATOR FISCHER: Did you want me to respond? [LB92]

SENATOR COUNCIL: And if Senator...if...Senator Howard, I'm trying...respecting the loss of voice, if you...I'll yield if you want to respond or yield to further response by Senator Fischer. [LB92]

SENATOR FISCHER: Senator Howard is telling me that her amendment to the committee amendment, it is just clarification. I'm speaking for myself now, that violations will be put into the laws of the land in regard to driving are--or the laws of the state--are in the driver's manual. So if we pass this bill and it becomes law, it will be included in the driver's manual. Senator Lautenbaugh mentioned earlier, we don't have signage up saying in Nebraska you're required to turn on your lights at dusk. [LB92]

SENATOR ROBERT: Time. Thank you, Senator Fischer, Senator Council. Senator Harms, you are next and recognized. [LB92]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of this bill. Senator Howard, thank you very much for being persistent in bringing it back.

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Senator Fischer and your committee, thank you for bringing it out. It's a good bill. It's one that's needed and I support it. Thank you, Mr. President. [LB92]

SENATOR ROBERT: Thank you, Senator Harms. Senator Avery, you are next and recognized. [LB92]

SENATOR AVERY: I intend to follow the advice--thank you, Mr. President--I intend to follow the advice of Senator Hadley and be brief and be seated. I just wanted to tell you one good reason why this bill needs to be passed. You may remember about two years, in February, the Lincoln High School track coach was parked along the side of the interstate, was hit. He was pinned between his trailer and an SUV and he was critically injured. He spent 46 days in the hospital with a fractured skull and he lost one leg because of this. A move-over bill probably would have been useful in this case. This is a good bill. I intend to support it and I hope you will too. Thank you. [LB92]

SENATOR ROBERT: Thank you, Senator Avery. Seeing no other lights on, Senator Howard, you're recognized to close on AM328. Senator Howard waives closing. Members, the question before the body is, shall AM328, the amendment to the committee amendments, be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB92]

ASSISTANT CLERK: 36 ayes, 1 nay on the adoption of the amendment to the amendment, Mr. President. [LB92]

SENATOR ROBERT: AM328 is adopted. Returning to the committee amendments, AM305. Is there anyone wishing to speak? Seeing none, Senator Fischer, you're recognized to close. Senator Fischer waives her opportunity. The question before the body is, shall AM305, the committee amendments, be adopted to LB92? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Please record, Mr. Clerk. [LB92]

ASSISTANT CLERK: 37 ayes, 1 nay on the adoption of the committee amendments, Mr. President. [LB92]

SENATOR ROBERT: The committee amendments are adopted. Returning to discussion on LB92. There are no lights on. Senator Howard, you're recognized to close on LB92. [LB92]

SENATOR HOWARD: Thank you. I will request that Senator Fischer take my time and do that. [LB92]

SENATOR ROBERT: Senator Fischer, 4 minutes 57 seconds. [LB92]

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SENATOR FISCHER: Thank you, Mr. President, and thank you, members. It was mentioned that this bill has been introduced by Senator Howard and her persistence on it. She asked that I read her closing so it could be in the record because this is a very important issue to her and I am very happy to do so. One of the testifiers at the public hearing for LB92 was an Omaha firefighter that was injured in an accident on I-80 early last December. He and another emergency service worker were struck by an SUV as they responded at the scene of an accident. The firefighter's body was thrown nearly 60 feet. He was still bandaged from his injuries when he came to testify. This man was not in the wrong place at the wrong time when he was injured. He was doing the job he does every day. He testified that he believes had there been a move-over law in place and had it been observed, the accident could have been prevented. Again, the purpose of this bill is to enhance public safety for the emergency and road assistance responders and for other motorists traveling our roadways. The signs are an important part of educating the public. They will provide motorists with information they may not be receiving anywhere else. As I mentioned previously, I don't believe that most drivers who fail to move over have malicious intent, but I do think we would be surprised at the number of people who simply are unaware of how important it is to move over or slow down for these responders. With that I thank you for your attention and I urge you to advance LB92. And thank you, Senator Howard; thank you, Mr. President. [LB92]

SENATOR ROGERT: Thank you, Senators Fischer and Howard. Members, you have heard the closing to LB92. The question before the body is, shall LB92 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Mr. Clerk, please record. [LB92]

ASSISTANT CLERK: 42 ayes, 1 nay on the advancement of the bill, Mr. President. [LB92]

SENATOR ROGERT: LB92 does advance. Mr. Clerk. [LB92]

ASSISTANT CLERK: Mr. President, I do have a priority motion. Senator Langemeier would move to adjourn until Monday, April 20, 2009, at 10 a.m. []

SENATOR ROGERT: Members, you have heard the motion to adjourn until Monday, April 20, at 10 a.m. All those in favor signify by saying aye. Opposed, nay. We are adjourned. []